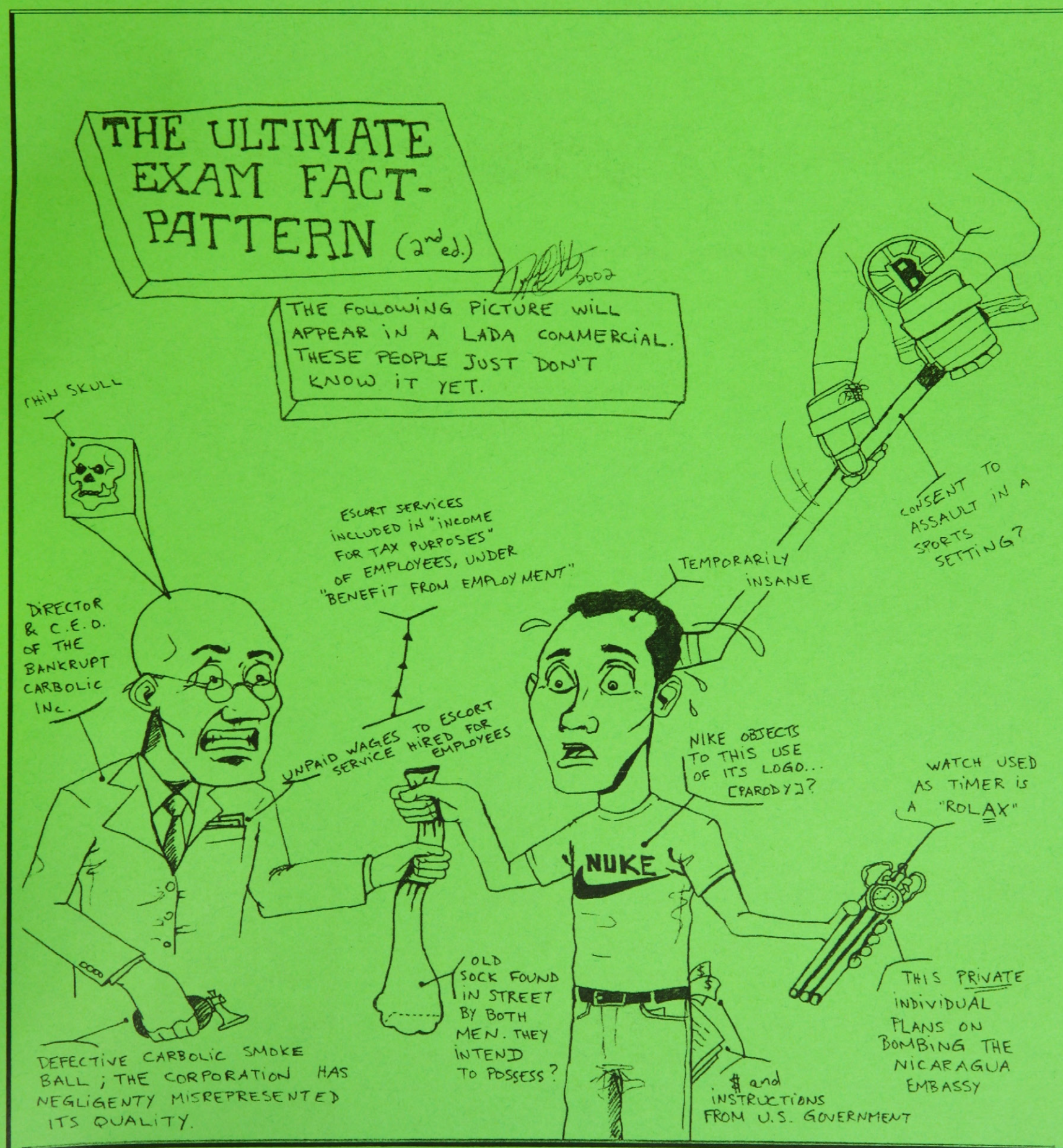


Quid Novi

McGill University, Faculty of Law

VOLUME 22, NO. 20



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Editor's Note

Dear All,

This is it; the final *Quid* of the year. It's absolutely full of great stuff for your reading pleasure.

The Elections Section is particularly outstanding. It took Marta many hours to put it together (and this was technically her weekend off) so if you see her - particularly if you are one of the candidates - please tell her how great it looks.

I know Marta thanked the *Quid* staff last week but I must mention again that working with you all has been really super (even those of you I don't technically know). I have absolute confidence that next year's *Quid*, under the direction of Fabien and Rosalie-Anne, will be spectacular.

To the person I squirted in the eye with my water-gun at Skit Nite - I am really sorry; I was aiming for the alien duck on your shoulder but she jumped out of the way at exactly the wrong moment.

Leaving Law School is a wierd feeling and not one I can adequately sum up in this little editorial note. I would compare the whole experience to one of those movies - like *Dead Poets* or *Lost and Delirious* - that somehow has the ability to be both depressing-as-hell and yet strangely uplifting. For three years, you (I) spend every single day loathing this place. But at the end, you're left with this amazing feeling because you made it through without becoming one of 'them'. So, it's inspiring in a way. It's life-affirming. Baby, it's just so very.

Rebecca

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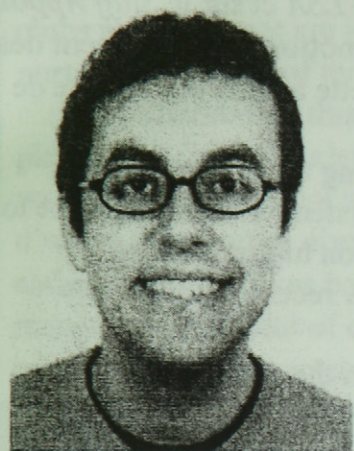
www.zsa.ca

Elections

Candidates for President

Jeff Feiner

The job of LSA president is part cheerleader, part diplomat, and part advocate. I feel that I possess the qualities and experience necessary to fulfil all three of these roles, most recently used as Co-Chair of this year's skit nite. On est une petite communauté d'étudiant(e)s très proches. En tant que président, je m'assurerai que tous les services que nous sommes habitués à avoir dans notre faculté soient maintenus, en particulier l'accès à la cafétéria et aux laboratoires d'ordinateurs, et ce, même après les heures de fermeture.



Apart from our interests in the university, I think that we have great potential to use our clout as students at a prestigious law school to engage in the affairs of the world. This is already accomplished to a great extent. However, as law students, we should invite more distinguished speakers, and participants in the political and cultural life of the greater community, to engage with us and exchange ideas.

Beaucoup de talent se cache dans notre faculté. Nous sommes plus que de simples étudiant(e)s en droit. Nous sommes des artistes, des acteurs, des chanteurs, des comédiens, et même des chefs pâtisseries. On devrait tous mettre à profit nos talents pour faire de notre expérience ici un plus agreeable moment.

We are a dynamic community. As President of the LSA, I would work with students, staff, and faculty to protect our interests, celebrate our talents, and exploit our potential.

Maria-Franca Silla

My name is Maria-Franca Silla and I am running for President of the LSA. Next year is an important year for the LSA. The letter of agreement governing the relationship between the LSA and the university will be signed and implemented. Implementation will require two major projects: First, an investment fund will have to be set up. Its purpose will be to stretch, as far as possible, the \$75,000 settlement that will be agreed to (cross our fingers!) by the university, in exchange for its retaking control of the cafeteria. Second, the new 'business' and public relations rules that the LSA will be following must also be implemented. Having actually strategized and negotiated the terms of this agreement, I believe that I am the best candidate to make sure that both of these are done effectively and always with the best interests of our faculty in mind. In addition, another major issue facing next year's LSA will be making sure that the debts of the bookstore are finally paid off, that a permanent home for it is



found and that its incredible potential for profitability is brought to fruition. Dans la mesure où notre librairie fait ses frais, nous gardons tous ses revenus. Ce qui veut dire, concrètement, que nous pouvons continuer à créer de l'emploi pour les étudiants de notre faculté et que nous avons une source de fonds supplémentaires. Ces fonds permettent à l'AED de continuer de supporter différents groupes étudiants (Chico Dexter... je ne t'oublie pas!) et à financer la liste croissante des activités qui dépendent de nous sans augmenter votre cotisation. Enfin, dans la dernière année, notre faculté et ses étudiants ont malheureusement été victimes de certains gestes de vandalisme et de harcèlement pendant Coffee House. Je suis déterminée à mettre fin à ces incidents en adoptant un système ou un plan qui assurera la sécurité de nos étudiants, profs, invités et biens quand nous faisons la fête.

I welcome any comments, questions or suggestions. Please feel free to email me at sillam@lsa.lan.mcgill.ca.

Elections

Acclaimed V.P. Academic

Rachel Smith

To those of you who recognize my photo – hi! To those who don't, my name is Rachel. I am running for the position of VP Academic because I think I have the experience, dedication and personality that the position demands.

Vous, les étudiant(e)s, avez le droit à une représentante dynamique et informée au sujet des questions académiques de la Faculté de Droit. Je suis dynamique! Je suis informée! Comme conseillère de la faculté cette année, j'ai travaillé intensivement pour représenter vos intérêts sur le *LSA* et sur le *Staff Appointments, Tenure and Renewal Committee* (le comité qui planifie la promotion et engagement des membres de la Faculté). J'ai beaucoup aimé le travail que j'ai fait cette année, et j'ai hâte de continuer mon participation dans les affaires académiques de la Faculté.



If elected V.P. Academic, I plan to work with the faculty toward improving the grading system, increasing its transparency, and considering alternatives to the current system. I would also like to ensure that students have a voice in the Faculty's upcoming discussions on tuition and funding reform. I want to ensure that the McGill students of today and tomorrow receive a top quality education at an accessible cost.

Je vous invite à voter pour moi, and I look forward to working for you in the coming year!

Candidates for V.P. Administration

Trina Wall



Hi, you may remember me from the McGill Legal Information Clinic! I Promise as VP Administration to make sure the meetings run on time at the LSA, and that taking into consideration our budget, the LSA will have great quality pens! Comme VP-Administration, je promets de connaître bien la constitution du LSA! Donc votez pour moi!

Natasha Wallace

Hey there my name is Natasha and I would like to invite readers and non-readers alike to exercise their democratic right, and vote next week in the LSA elections. I am running for VP Administration, which requires many organizational and interpersonal skills (as well as being the office gopher!). I'm very excited to serve you and get involved in the Faculty. If you see me in the halls and want to approach me, feel free, I'd be more than happy to chat. Otherwise get out there and vote (for me) next Wednesday and Thursday!

Photo
not
Available



Salut! Je me présente comme une fille sympa et enthousiaste de vous servir. Je sais que je suis ni gamin, ni joueur de cricket, mais je sais que même Lord Denning me soutient dans ma candidature comme VP d'Admin.

Elections

Acclaimed V.P. Clubs and Services

Shantona Chadhury

Friends, Romans, Countrymen.... Just kidding. I figured a little gratuitous pomp and ceremony might help to break the ice! I only have a few lines in which to convince you that I would be a great VP Clubs and Services, so let me cut to the chase.

La première chose qui m'a frappée en entrant à cette Faculté était l'enthousiasme extraordinaire des étudiants, et cette impression n'a fait que s'accroître au cours de ma première année ici. The over 40 student-run clubs at this school are testament to the talent and initiative of the Faculty's students, and I would like to help nurture this aspect of the school by taking on an organizational role in its clubs and services.

I believe that this position should be filled by someone who is committed to making the Faculty an enjoyable place to be for the students; someone who is willing to listen and is open to hearing students' ideas of what they want from their school and its student government. L'organisation des clubs et des services entraîne l'établissement d'un équilibre entre divers intérêts et responsabilités, lesquels risquent parfois d'entrer en conflit. Organizing clubs and services involves balancing many different, and sometimes competing, interests and responsibilities. This requires a great deal of dedication, enthusiasm, diplomacy, and organizational skills. I am (I hope!) a friendly, approachable, competent, work-hard/play-hard individual who thrives on getting involved and balancing a multitude of activities. As an LSA Exec, I would aim to make the LSA a student government that is not insular or aloof, but closely involved with, and directly responsible to, the students for whom it works.



We have a great Faculty, but there is always room for improvement. I'd like to see a more efficient computer network, a more inviting student lounge area, and I'd like to ensure that students can rely on a fair and efficient system of LSA support in the many activities that they may undertake throughout the year. I don't want to make unequivocal promises that I can't keep – i.e. leather couches and an open bar in the pool room – but rest assured that I would use all resources available according to interests that you express. And oh yeah – last but not least – I would really, **really** like clean microwaves, but I **don't** promise to clean them myself. Servant of the people, yes, but there are limits. Happy voting et bonne chance à tous les candidats!

Acclaimed V.P. Finance

Tania Djerrahian: Law II: Former Money Bags of Law Games



VP Finance, what a job: Crunching numbers, writing checks, collecting bills, trying to stay in the black. For some, this task is scary and they rather stay far away from it. For me, this task is fun and I welcome it. Being VP Finance for Law Games was not enough, I want this job again and this time for the LSA. So, please, vote for me and you won't have to worry about money.

Elections

Candidates for V.P. Internal

Jessica Braun

Platform? Essentially, I want to continue in the grand tradition of making the law school more than just a place where people go to school. I would like to see more faculty at Coffee House (je m'engage meme a garder moi-meme les enfants des professeurs pour realiser cet objectif!) and I'd like to see a 'rapprochement' of the English and French students in the Faculty. I would also like to plan more 'less formal' events -- why not faculty curling?



Qualifications? Aside from being a regular at law school social events this year (j'avoue ne pas etre allee a la soirée de la St-Valentin -- mais y etes-vous allee vous memes?), I have loads of student government experience at the undergrad level and I'm extremely dedicated to any project I undertake (demandez a n'importe quelle personne impliquée dans Skit Night -- j'étais la maniaque de service!).

So here comes the mandatory plug: Vote pour moi! I promise it will be lots of fun.

Daria Hobeika

Bonjour!
Here are the Top 3 Reasons why I should be VP INTERNAL:

1 - mon amour éternel pour Coffee House.

Now if there's one thing I learned during my first year, it's that you can go from not liking beer at all to not even noticing that you just drank seven bottles while working behind the bar and still being able to do your constitutional law readings (by readings I mean quicklaw summaries, of course) when you get home.

2- my willingness to skip class to make posters

And then to come to school on a Saturday to put them up, all this during my memo. (For more advice on how NOT to get good grades in law school, please e-mail me at daria.hobeika@mail.mcgill.ca. I can guarantee you, the possibilities are endless.)



3- My willingness (if number 2 is not enough) to make myself a walking, living poster.
Yep, I'm that girl who walked around for a week wearing a T-shirt decorated with old CDs and coloured electrical tape (batteries not included) to advertise Skit-Nite. Peur du ridicule, moi? I still can't decide which got me more funny looks: that or coming to school dressed up as Cowboy Barbie for Halloween.

Bon, je crois que j'ai épuisé l'espace auquel j'ai droit. N'hésitez pas à m'approcher si vous avez des questions, dans les couloirs, par internet, ou par téléphone. Mon numéro est dans le bottin, et je reponds toujours. Sauf quand je dors... En classe... Mais ça, c'est une autre histoire...

Daria Hobeika.

Have you told the faculty how you feel about it lately?

Go to webct3.mcgill.ca, and drop it a line...

Login: firstname.lastname (if you have a space in your name, use the underscore _)

Password: yearofbirthmonthofbirthdayofbirth (e.g. 19790330)

Course: Faculty of Law Questionnaire

Why should you do this? Because the faculty and student representatives need to know what students think about the McGill Program.

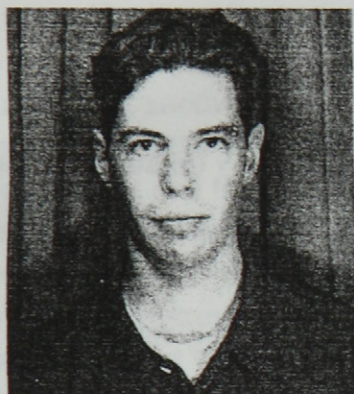
How long will it take? It takes most people about 10 minutes.

Elections

Acclaimed V.P. External

Jeff Roberts

I bring to this portfolio an intimate knowledge of this university and its resources. As students, we have a vested interest in the public profile of this faculty; I will work to ensure that McGill's reputation is maintained and promoted. As well, I will strive to create an LSA that recognizes the equal importance of scholarly excellence, career goals and a commitment to social justice and the environment. My specific platform includes: guarding against attempts by the Quebec government to raise out-of-province tuition; protecting the faculty's interests vis-a-vis the university, including keeping control over our food service; hosting a pool and chess tournament. J'ai l'intention de developper de meilleurs liens avec la faculte de droit de l'Universite de Montreal tant au niveau academique que social. En fin de compte, je vais mettre toute mon energie a batir une LSA qui soit dynamique, competente et ouverte aux attentes des etudiant(e)s.



-Jeff Roberts

Acclaimed V.P. Public Relations

Kristina Heese

Hello everyone! I am very excited with the prospect of becoming your VP Public Relations. I would first like to say that I would be honoured to work with any of the wonderful people running for next year's LSA positions. Je crois que j'ai l'expérience et les habilités requises pour faire un travail exceptionnel. As VP Social Events for Law Games 2002 and as the producer of Actus Reus' first production, *The Assembly of Women*, I found the money and negotiated the best deals possible to help in making both of those events smashing successes. Je veux maintenant continuer à concentrer mes efforts au bénéfice de l'AED et contribuer au succès des événements de la faculté. On Wednesday, remember to vote for Kristina Heese.



Acclaimed V.P. Sports

Stephen Panunto

Those of you who know me know how much I love sports. If you read the *Quid*, you know how much I love sports. If you play intramural soccer or hockey with me, you know how much I love sports. If you were at Law Games this year or last, you know how much I love sports. If you were at Malpractice Cup this year or last, you know how much I love sports. If you were at the Golf tournament this year, you know how bad I am at golf. So what I am trying to say is that my best qualification for the position of VP Sports is that I love sports. I also helped run the sports portion of Law Games this year, and I have been the captain of several intramural teams. Last but not least, and in keeping with my passion for sports, I am a very competitive person. So please give me another victory by voting for me next week, and I'll do all I can to retain the Malpractice Cup, and bring back the Law Games Sports Award to McGill - where it belongs.



Elections

Acclaimed Second Year Presidents

Carlos de Vera

(No photo or text submitted)

Ruth Kanfer

(No photo or text submitted)

FAQ

Q: What does "Acclaimed" mean?

A: It means the person doesn't need your vote. Nobody ran against them, so they have the position by default. Hooray for democracy!

Q: When is the election?

A: I am just a *lowly* editor, but I noticed that Kristina's platform blurb refers to Wednesday as the voting date, so that must be it.

Q: Are there any positions left?

A: Yes. The positions of third-year and fourth-year class presidents (there are two per year) remain unoccupied.

Gale Cup Moot 2002 / Concours de la Coupe Gale 2002

Fraser Milner Casgrain LLP and the Ontario Bar Association congratulate **McGill University** law students **Dominique McCaughey, Hala Rashed, Lori Di Pierdomenico, Joëlle Rudick** and their coach **Domenic Desjarlais** for their participation in the 2002 Gale Cup Moot and wish them the best of luck in next year's competition.

This year's overall team winner was the University of Toronto

The winner of next year's Gale Cup will represent Canada in Melbourne, Australia for the Commonwealth Moot competition on April 13 - 17, 2003.

Canada's premiere, national, bilingual mooting competition.

The 29th Annual event featured students from 14 law schools competing for excellence in oral advocacy, arguing a real Supreme Court case with a distinguished panel of judges to simulate an appellate court experience.

Le premier tribunal-école national bilingue au Canada.

Le 29e concours de plaidoirie a réuni des étudiant(e)s de 14 facultés de droit qui ont débattu une cause authentique de la Cour suprême devant d'éminents et de vrais juges dans un contexte simulant une expérience réelle en cour d'appel.

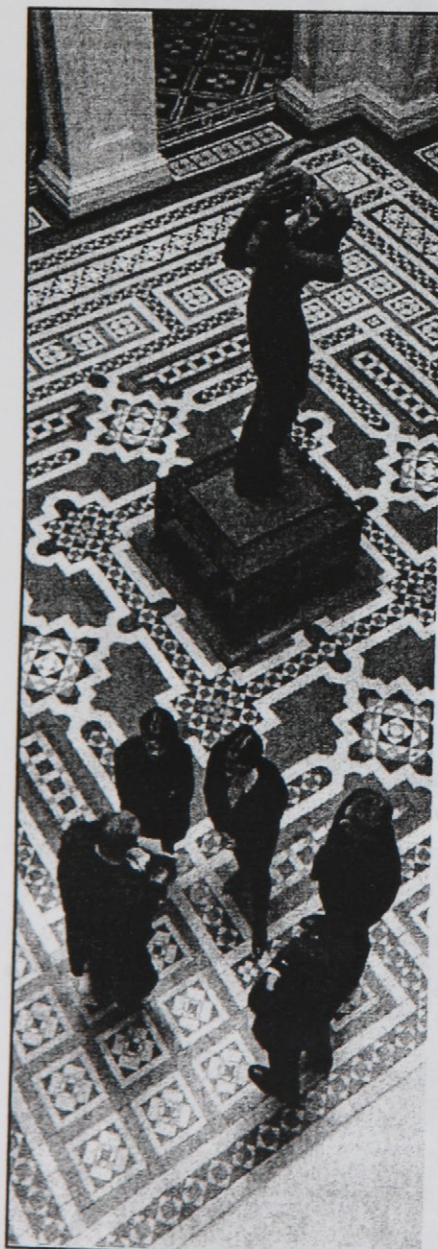
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Goodbye to All That

by Jeremy Waiser, Law III

In the prime of Bruce Springsteen's career, when no stadium was big enough to hold his fans, and critics were calling him the most significant American artist since Bob Dylan, Springsteen's parents were still trying to get him to go back to college. Every time he came in the house: "You know, it's not too late, you could still go back to college!"

One evening he addressed the audience at another sold out show. He spoke of his teen years in Freehold, New Jersey, and the trouble he'd sometimes had with his folks and their difficulties with his choices. "When I was growing up, there were two things that were unpopular in my house. One was me. The other was my guitar. My mother and father always said, you should be a lawyer, you know that's a good life. You could get a little something for yourself... But what they didn't understand, is that I wanted *everything*."

To which we might wonder: can you be a lawyer and still have everything? But more on that later.

BLS (Before Law School)

I can distinctly recall sitting in the backseat of my aunt and uncle's car, hearing of how my cousin had been accepted to McGill Law School. "They got 1200 applications and only accepted 150!" Pretty impressive, I thought. My LSATs were still two years away and to me law students were in another stratosphere.

That summer I attended my cousin's undergraduate convocation. There were two commencement speakers: husband and wife team Richard Goodwin and Doris Kearns Goodwin. A chapter of *his* life was made into a movie, as the man who brought down 21, a 1950s "Quiz Show". He then went on to work in

the Kennedy administration, and for Lyndon Johnson, RFK, and finally, Jimmy Carter. *She* is recognized as a premiere American historian, famous for her biographies of Johnson, Franklin and Eleanor Roosevelt, and others.

He spoke first, and stirred the crowd with stories of struggle and integrity while working with the brothers Kennedy; of what a tragedy the death of JFK had been, and perhaps even more so that of Robert; of a time when public service was the greatest calling you could answer; of how we need more young people to heed this call today. When he finished – to thunderous applause – you could *see* the inspiration coursing through the veins of the thousands of students in attendance. *Yes, I will* do something to help! I will make my life extraordinary!

Then his wife addressed the crowd. She had become close with Johnson while working in his administration and came to know a man beaten down by the failures of his presidency. Here was an individual of unmatched ambition, who'd attained the highest office on earth. His "Great Society" was destroyed by the costs of the Vietnam War. Crowds shouted to him from behind the White House lawn: "Hey, hey, LBJ! How many kids did you kill today?" He was also haunted by the Kennedy legacy. When word of JFK's dalliance with Marilyn Monroe began to surface, Johnson pounded his desk with his fist and protested, "Why, I had more women by accident than John Kennedy ever had on purpose!"

Kearns Goodwin described the last conversation she ever had with Johnson, who died only a few years after leaving office, broken in spirit more than in body. Her phone rang at 6:00am in Boston, where she now taught at Harvard, and she knew it was him, since he always woke well

before dawn at his ranch in Texas.

"I've been reading Carl Sandburg's biography of Lincoln and as hard as I try, I just can't bring him to life", he said. "If that's true of me – one President to another – how can I expect the American people to care for me? I would've been better off building a legacy through my family." She tried to console him with a joke. "Don't worry Mr. President. From now on, every exam I give at Harvard, I'll be sure to include a question on you!"

"You're not listening", he said in an uncharacteristically solemn voice. "I'm telling you something important. Get married, have children. Spend time with them." A week later, Johnson passed away.

Law School, and everything after

Several hundred of us will soon graduate. No more teachers, no more books, no more summaries, take-homes, Pino's, Coffee Houses, Skitnites.

Recently, I have found myself making calls home to friends, missing people before they're gone. Trying to hold on to times gone by, as they slip-slide away. We probably all do this, to some extent. Sometimes our recollections outshine our actual experiences. ("They can never match my sweet imagination" – Paul Simon) But such is life. Either way, it's a tough pill to swallow knowing that many of the people we've shared laughs, dejection, and late-night study sessions with over these last years will soon be apart from us.

It's nice to know there will be good times ahead. Weddings, long distance phone calls after the birth of a first-born, and also sharing the mundane stuff with each other, like waiting all night at the printer's for a prospectus filing.

But now we're knock, knock,

knockin' on real-life's door. Some will clerk, some will work in government, most will go to big firms. An ad for a firm appeared in a recent Quid with the caption "When you're

turned sixty-four this year. Time flies. Professor Scott said as much when he expressed that "As you get older, the decades of your life go by faster and faster." That's pretty scary, considering

how fast our twenties are going. And a pretty good reason to make the most out

Sometimes our recollections outshine our actual experiences.

a lawyer, enjoying your life starts with enjoying your work." Is that true? Is work going to be more important to our happiness than our friends and families? Good God, save my bod.

Which brings us back to the question above: can you be a lawyer and still have everything?

You know the song, "When I'm Sixty-Four" (Will you still need me? Will you still feed me?)? Well, one of the two writers of that song

of *all* aspects of our lives.

We'd do well to remember that there are some things which might actually carry as much weight in the "enjoyment of life" category as work. Like family. Love too, if you can find it, ought to help you handle whatever hardships life brings to a boil. Yeats: "What were all the world's alarms/To Mighty Paris when he found/Sleep upon a golden bed/That first dawn in Helen's arms?"

How can you have *every-*

thing? My friends, there is an answer, but I certainly can't tell you what it is. To quote Curley from "City Slickers", "The meaning of life is just one thing... *this!*" (Here Curley holds up his index finger). "What's that?" Mitch asks. "That", Curley says, "is what you've got to figure out for yourself."

The lesson of the Goodwins' commencement speeches' one-two punch was not immediately clear to me when I first heard it. But I think I understand it more now. *His* message was an inspiration. *Hers* was a warning. Strive for all you can, do more than just make money, make your careers count for something, but remember what's most important in the end.

We *should* strive and fight for our goals. But we should bear in mind what we're fighting for. It would be a shame to win, and then discover that we were playing the wrong game.

William R. Eakin B.A. '31, B.C.L. '34 (1909 – 2002) – Those Smiling Irish Eyes

by Tony Hoffmann, LLB '01

William R. Eakin passed away Sunday, March 17th, St. Patrick's Day, at the age of 92. It was typical of him – an Irishman, he took his final bow at precisely the right moment. Why am I writing this, you ask? A number of reasons. He was my grandfather, and I think he deserves to be remembered as much by McGill's Faculty of Law as by his family and friends. You see, he attended McGill almost three quarters of a century ago, from 1928 to 1931, and he was at the Faculty of Law from 1931 to 1934. But his association with the faculty, and with McGill, didn't end until this Sunday.

My association with the faculty is only four years old – his lasted almost 70. Quite another kettle of fish. It is a commitment that absolutely flattens me when I stop to think about it. My grandfather quite clearly felt that something as valuable as what he learned at McGill, and the Faculty of Law, should be tended and supported with love and attention, so that what McGill gave him should be available for those who came after him. It is in part because of that commitment that I am able, as of last year, to say that I am a graduate of McGill's Faculty of Law myself – like my father; and my grandfather. McGill is a part of me that I hold tremendously dear, and when people

ask where I went to law school, I reply with enormous pride: "I went to McGill." I will never forget that my grandfather was a part of creating this place that I was so lucky to attend.

My grandfather served McGill enthusiastically in so very many ways. He was President of the Alumni Association, a Governor of McGill from 1970 to 1980, the Chairman of the Board for 1976 and 1977, and he was named Governor Emeritus in 1981. Of particular importance to the faculty were his effort and determination in the creation of the F.R. Scott Chair in Constitutional and Public Law – A position that has been held by Professor Rod Macdonald since its

inception. I was given pause by the sheer volume and scope of work that my grandfather did for the university when I realized that his association with McGill lasted longer than most people actually live. In fact, that is what I consider to be his most precious gift – his time. I'm glad I spent the time I did at the faculty, and I'm glad to have been associated with the faculty and the university that he loved for so long. It was the best and highest tribute I could pay to him. Would that I – that all of us – could even hope to contribute as much as my grandfather did to this place that has taught us all so much.

As I write this, I am torn between grief and joy. It will soon be the day of the funeral, and we will have to bury a man whom we loved, a man who made us laugh, a man who loved life, and a small piece of me will undoubtedly go with him – that is the grief. The joy is that we have also planned a party for him and for his memory. He was not a man who would have suffered such grieving gladly. I cannot imagine him any other way than when he used to sit in his favourite chair, in his living room, with his family around him and a glass of scotch firmly in his hand, making us laugh. I have never known

a man more gentle of humour and more sparkling of wit. As François Rabelais wrote, quite aptly I think, *"It is better to write of laughter than of tears, for laughter is the property of man."* Granddaddy, your laughter will ring on in my ears forever and – this I know – will echo in the halls of the faculty for generations to come.

My sincerest thanks to Professor Rod Macdonald at the Faculty, and Simone Gabbay, Susan Button, and Janet Arts of Alumni Relations for providing me with some of the above dates and details.

And That's the End of That Chapter!

A final Quid article

by Harvey Auerback, Law III

*"Ha! Now you know how it feels!" –
Apu Nahasapeemapetilon
"Thank you, come again!"*

– Homer Simpson

According to Marta, this is most likely the last Quid of the year, and thus the last Quid of my tenure at McGill. I had hoped it wouldn't come this early, since I enjoy reading the Quid every week. I found that this year I've begun pacing around the Pit at 1 PM on Tuesdays, after Equity and Trusts, waiting anxiously for a Quid that would inevitably not arrive at the exact same time every week. I wonder if Harry Potter could find some sort of magical cure for my Quid-itch.

As I've mentioned time and again, I'm graduating this year, having completed 105 credits in the most painful possible way – in three years with only 3 summer credits in total. This term, although I have only four exams (thank you Legal Clinic

and Professor Sklar), I have the misfortune of having two closed-book exams on the same day.

Of course, I could always take Professor Stephen Smith's weasel-out option and write a paper in lieu of one exam, but I'm notoriously bad at pacing myself while writing papers. My last paper was 50 pages long, and all of the actual writing was done in the 48 hours immediately before it was due. Professor Lametti, if you're reading this, I'm relatively sure it's too late for you to lower my mark. If I were to write a paper in lieu of my Jurisprudence exam, it would be due on the same date as my Family Law exam. I learned that lesson last term too, as was briefly mentioned in my previous Quid tirade about the Lease exam I wrote immediately after submitting a paper for Professor Gold.

It bothers me somewhat that instead of my increased workload forcing me into a disciplined regime of going to bed early, eating on regular schedules, and keeping up with my readings, I've found that it

somehow perversely trained me to be a better procrastinator. All that has happened is that I've gotten better at determining when exactly the 'last minute' is. This is really terrifying, and I don't want to take the chance that this is the time I finally get my timing wrong. I know I can muddle my way through just about any exam if I've paid attention in class, and anyway my GPA goal for this term is a rather attainable 2.40.

But enough about the present. This article, my last as a student, should be about the past and the future. I have collected a number of reminiscences and random thoughts, as well as some advice for those of us who will be sticking around for a while. They are in no particular order, and not in order of importance. I guess you'll just have to read them all. You weren't learning anything in Foundations anyway.

Why don't more people submit to the Quid? She seems a rather willing master. I like a nice, thick Quid that can last me through JICP, a couple hours of my day at the

Clinic, or my commute home. There are lots of creative people in the faculty, as evidenced by Skit Nite, and they should use the Quid as a weekly outlet for their creativity.

What's wrong with the people who do submit? Some articles, especially in last week's Quid, were a pleasure to read, but others have really scared me.

Well, to be honest, one person in particular scares me whether he

submits or not, but at least he's putting it in writing where it can be neatly avoided or skimmed, rather than deftly and loudly proclaiming his views in Jurisprudence class.

For the sake of

anonymity, let's call him "Edmund C." No,

wait, "E. Coates". No, no, let's call him "Phil". That way, nobody will know who he is.

Pablo Bustos is also starting to scare me a bit, and he's getting even more Quid time than me (which alone ought to be a capital offence). His latest article suggests, and very nearly logically implies, that he carries, or would like to carry, a gun. I guess he thinks it will protect him from tyranny or something. I wonder how it will protect him from the tyranny of the government, which employs a military with bulletproof clothing and vehicles, and bigger guns than he will ever have. I also wonder why he doesn't seem to be aware that the Charter, notably ss. 2, 3, 4(1), 7, 9 and 15, has thus far been rather effective in protecting us from tyranny. Section 1 even protects us from the tyranny of the Charter itself. I have yet to see a single accidental shooting in which a Charter of Rights was involved. I passionately believe that the people who want to carry guns are precisely the sort of people who should not be allowed to carry them.

While we're on the subject of past Quid content, I'd like to say that I've always been in awe of Jay

Turner's cynicism, ever since that first year Admin Pro class. Jay, I predict that within 20 years you'll be Secretary to the Cabinet.

Kristine, thanks for a wonderful factum and moot experience in second year.

You made me realize just how valuable it can be to have someone with a completely different perspective on my team. Working with you

She seems a rather willing master.

actually made factum fun.

Why do we have a library? I think I looked up more hard copy references during Legal Meth than in writing my four papers combined. I did most of my research at home, sitting in front of a computer. I think the only time I actually needed the library's paper resources was when I had to look up two cases in the All E.R. that were a decade older than Quicklaw's oldest. Much more of the library should be a computer lab with full access to online legal databases, or quiet study area such as desks or group study rooms. Part of it could even be accessible to all law students and only law students, at the swipe of a student card. That way we wouldn't have to worry about our recurring SNAIL infestation problem.

Why do graduating students get to vote for fee increases in SSMU referenda?

I would like to apologize if I have said anything inappropriate over the last three years to Emilie, Tania, Jeanne, Nicole, Lizanne, Trina, Lynne, Regina, Mimi, Kristina, Wendy, Marianne or any other female in the faculty. Sometimes my mouth isn't fast enough to stop either my brain or my foot.

I was at McGill for three years before I knew there was anything "lower" about lower campus. It was just "campus" until I got into Law.

I have noticed that doing one's readings results in lower grades. This appears to apply to everyone, and not only to me. I applied this strategy last term, and got a GPA a full letter grade above my average. Beware of readings!

Why is an academic teaching

a course in Civil Procedure – in his second language?

Of all the professions that seem like they just might be a good idea (i.e. not counting jobs along the lines of "javelin catcher"),

accounting is by far the worst. I know this from experience. Never become an accountant, and never let a close relative or friend even major in accounting, just to be safe.

Thanks to Pat, Trina, Lizanne, Grant and Dan for tolerating me for a whole year at the Legal Clinic. I'll miss you all very much.

Does it strike anyone else as odd that the tallest building on this island is shaped like a giant penis? How inadequate was the architect feeling when he designed that thing? It is, however, strangely appropriate that such an edifice would house the Montreal office of Smart & Biggar – Smart because of where men tend to keep their brains, and, well...

Tim, thanks for two terms of excellent ball hockey. It was piles of fun. Keep it up next year.

Zeus, I still can't forget the last play of our softball season this past summer. Hope we have you back at short next year.

Adrien, if you strike out and strand me on first one more time, you're off the team. We want a hitter, not Margaret Thatcher.

Alcohol has the strangest effect on some people. Sometimes it makes them put slices of lemon in

their eye. If you are such a person, perhaps you should consider a profession not known for its copious drinking.

It was an immense pleasure working on Law Games with such a talented Exec. Well done all of you, especially Marianne who put it all together and TJ who had a whole lot of extra work land in his lap during the Games. Hilary and especially Lizanne worked a lot harder and were much more instrumental to the smooth running of the Games than they got credit for. Let's hope the Games go as well next year. I expect to be there, wherever "there" is.

When you read "submit to the Quid", does anyone else think for a fleeting moment that the Quid is some sort of dominatrix?

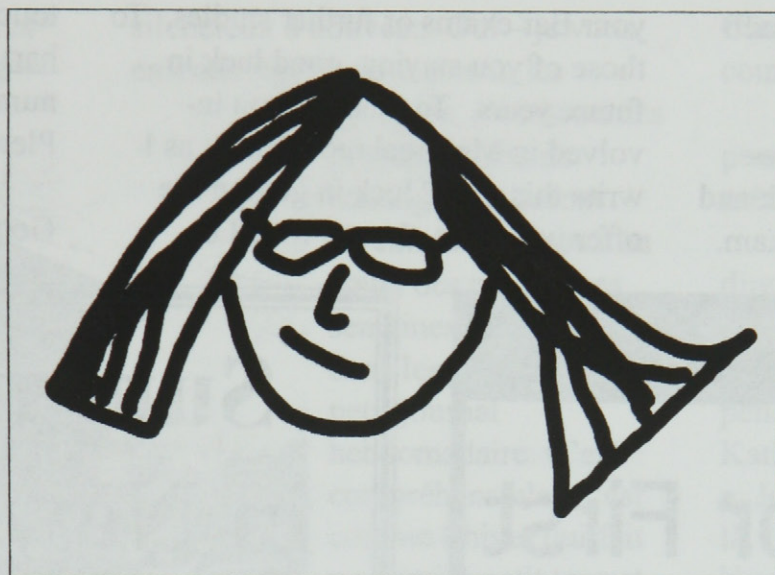
I'm a huge fan of the Gilman Tax, and I hope it will outlive his stay here. I don't see what all the whining was about. Of all the fees we have on our fee statements and all the extra charges imposed on us for various services in and around McGill, this one has got to be the easiest one to avoid paying. Just bring your mug to Coffee House. I've gotten at least five or six free mugs from law firms, and I didn't even pick up a free Gowlings mug at any of their Careers Day tables. You can also wash your cup from last week's Coffee House and bring it to this week's Coffee House, or just bring a mug from home. How hard is that? Anyway, all the money raised from the Gilman Tax goes straight to charity. It's not even an LSA cash grab.

Oh, and also when you order coffee at Pino's you should try to drink Gilman's Free Range Hippie Coffee, or whatever. I would, if I drank coffee. I think they treat the beans nicer, and give them the emotional support they need to grow and mature properly. You came here to save the world, right? Every well-adjusted coffee bean is a step in the right direction.

Did you know that if you laid all the lawyers in Canada end to end, they wouldn't reach a conclusion?

If any of you are ever in Yahoo! chat, contrary to your better judgment, I'm the one called commie_bat. Make sure to say hi.

I suspect Notice Board is the most thankless student job in the faculty. Thanks for telling us all the important stuff we needed to know, Notice Board.



Play softball this summer. This goes for all of you. If you're in Montreal this summer, you have no excuse. It doesn't matter if you suck. It doesn't matter if you have a full-time job. It doesn't matter if you're a girl. Actually, it does matter if you're a girl. Two years ago, we defaulted a bunch of games because we didn't have the requisite three girls on the team. Last year, we got caught up in some ad hoc litigation because we had three guys at the bottom of the order and three guys at the top of the order, i.e. six guys batting in a row. We were supposed to have at least one girl at bat out of every four hitters. We had to give up an inning, but we still won the game. E-mail me for more information on this summer's softball league, organized through PGSS. There's beer after every game, and potentially life-threatening slices of citrus fruit.

What's more dangerous than a slice of lemon? A Pop Tart left unattended.

If anyone has a substantive question about any course I have

taken or am currently taking, feel free to phone me and ask. I'm always willing to help. This includes JICP, Family, Equity & Trusts, IP, Crim, Tax, and all the first year courses. Good luck to all on your exams and papers!

Speaking of exams, allow me to reiterate some tips I included in a previous Quid article, and add a few more. Remember, some of these may not apply to everyone, they're just what seems to work for me.

If you prefer papers, and you get higher marks on them than on exams, then write papers. Do term essays, paper courses, and optional papers.

Don't start with an ambiguous question. Start with a different question, and resolve the ambiguity by asking the examiner himself when he visits the exam room.

Don't answer an ambiguous question at all if you don't have

to. There's no sense in taking unnecessary risks on a 100% final, if you have a choice of questions. Skip the dangerous one.

Don't panic.

Salvage what you can.

Suppose you misread question 1, sub-question 1, and you find you have actually answered question 1, sub-question 2. Simply re-number your answer and be on your way. A single well-constructed sentence will give a smooth transition back to the question you were supposed to be answering in the first place.

Do each question individually. Assign yourself a target time for finishing each question, and when that time comes, finish your sentence and move on. Don't look back until you are finished the exam, and don't take emotional baggage from one question with you to the next.

Get some sleep the night before the exam. There comes a point where sleeping is more important than studying more.

Be well rested while you're studying. You have to do three things

to survive

– eat, sleep and study. It doesn't matter what order you do them in. If you're tired, sleep first and study once you're rested.

Open book exams are usually best when done with one's book closed. The exam is no place to be leafing through a casebook or a 200-page pile of class notes.

I prepare a summary for each course consisting of a list of statutory provisions and a line or two on each case, organized according to the course outline. The entire thing usually takes up less than 10 type-written pages, and is a very quick and complete reference during the exam.

Whatever summaries you type at home, e-mail yourself a copy so that you can print them out in school if necessary. Keep a few bucks worth of print credits on your account during exams – you never know.

Your grades and ranking don't matter. Relax and write your best exam at the time, then forget about it and get on with your life.

To those of you leaving, good luck in your Bar exams or further studies. To those of you staying, good luck in future years. To those of you involved in Montreal recruitment as I write this, good luck in getting the offer you want, though it will be

moot by the time this article is published.

I think that's just about all I have to say for now. Being in McGill Law has meant a lot to me, and it's the first place I've really felt that I fit in, both socially and academically. I've had three wonderful years here. I'll miss you all very much, students and professors alike, except for Nicole Lachance of course. I hope that many of you will want to keep in touch. My e-mail address is harvey@auerback.com and my phone number is 514-887-7072. Please update your bottins.

Goodbye.

Judges for First Year Moots!

The first year moots will be going on during the next couple of weeks and needs the contribution of upper year students to be successful. So grab a couple of your friends, and go SIGN UP downstairs next to the basement computer lab.

IT IS VERY IMPORTANT THAT PEOPLE SIGN UP, IF THERE ARE NOT ENOUGH JUDGES, THEY WILL HAVE TO BE CANCELLED.

They all begin at 6:30 pm and last about an hour.

Any questions? Call/write the coordinator, Cara Cameron, at legal.methodology@mcgill.ca or 398-6894.

Summer Sublet in New York City

One room in a large two-bedroom, two-bathroom 10th floor apartment on East 21st Street, near Gramercy Park. Entirely renovated summer 2001, hardwood floors, separate bathroom with walk-in shower, brand new bathroom furnishings and kitchen appliances (including dishwasher, microwave oven), lots of natural light, manned elevator / doorman service, two closets in room, laundry room on premises, several grocery stores nearby. Roommate is an attorney at another major law firm. Short walk to 4/5/6 and N/R subway lines. Will leave furniture (including a double bed) if needed. Available from May 1st (or May 15th) to August 31st. \$1700.00/month. Contact Pierre-Hugues Verdier at (212) 225-2246 (daytime), (212) 475-8171 (evenings) or pverdier@cgsh.com.

NYC

Mercredi soir

par Sébastien Roy, Law III

Mercredi soir – c'est le printemps ou c'est l'hiver? En marchant pour rentrer ce soir, j'avais peine à mettre un pied devant l'autre tant la neige gorgée d'eau pesait lourd. Les branches d'arbres tremblaient sous le poids de cette



neige qui est arrivée sans crier gare. C'était mouillé. Mais c'était aussi pas mal beau. C'est toujours la même chose à la fin du mois de mars à Montréal. Il se pointe le bout du nez une dernière fois : « oubliez-moi pas

!», il crie le bonhomme hiver.

Anyway, en marchant ce soir je me suis rendu compte que l'année était presque finie. Et ça m'a frappé comme une tonne de briques. Avant qu'on le sache, on aura plié bagages et les corridors de la faculté seront silencieux à nouveau. Oui – je vous entends rigoler doucement, les

cyniques. J'écris un des premiers traits de nostalgie. Ils seront sûrement nombreux au cours des prochaines semaines à s'épancher dans les pages de notre petit journal hebdomadaire. C'est compréhensible. C'est comme l'hiver qui fait un dernier petit tour et qui demande qu'on ne l'oublie pas. Puis on ne l'oublie pas. Du moins, on ne l'oublie pas pour

quelques jours. Ensuite le printemps s'amène.

Puis tout recommence.

On y arrive. Je voulais simplement dire merci à ceux qui ont

fait de ces dernières années trois des plus mémorables de ma vie.

Sérieusement : c'était vraiment bien. Vous êtes la vraie richesse de cette faculté : j'ai autant, peut-être plus, appris de mes amis et de mes collègues que de qui que ce soit ici. Changez pas trop. Je vous aime comme vous êtes.

Même si vous changez, je pense que je vais vous aimer quand même. I am such a sucker.

Ah oui – je voulais aussi vous dire que vous m'avez fait un vrai beau cadeau il y a deux semaines. J'étais debout à l'arrière de la salle pendant Skit Nite, puis j'écoutais Kathryn et Nicole chanter « Lodestar ». Je vous regardais. Vous étiez tous là, l'œil brillant et le sourire aux lèvres. On a bu et on a dansé. C'était un vrai beau cadeau. Les grands bonheurs sont toujours un peu secrets, mais celui-là j'avais envie de le dire. Parce qu'il vous appartient aussi.

Thank you, good luck, and take care.

by Eric L. Gilman, Nat IV

Ibegan getting nostalgic about 5 months ago. I began saying goodbye to people in December (friends going on exchange). I started remembering writing the LSAT, my interview, my first day at the faculty, etc. I began thinking of the last Nat IV class, my last Skit Nite, my last Reading Week, my last Coffee House, my last exams...oh

yeah....Bar School...well you get the picture.

I have also been thinking about this Quid submission since the beginning of the semester. What would I write? What would I say? Of all the letters, Quid submissions, class assignments, and term papers that I have been capable of "whipping off" in what seemed like moments, how come I am sitting

here, in the basement computer lab on a Friday afternoon, with complete writer's block? Everything I write sounds like a high school commencement address – cheesy, trite, and brimming with a saccharine-like naiveté.

I wanted to say that these were four of my best years. I wanted to say that I have become a happier and more optimistic person. I used to

dwelt on my past, and now I can only see the future – and smile. I wanted to write that attending law school was very important to me – particularly at McGill. That I cannot imagine having gone to another school – in a different city, with different professors and different students.

The article would have paid particular attention to the people –

always love and cherish. The friends that have become such a part of your life that you can really imagine not having them by your side. I have been told that a person is lucky if they have one or two *real* friends in their life. If that is correct, then I not just lucky, but truly blessed!

Having given up on trying to write the “fluffy bunny” type of

goodbye letter, I then focussed on an anecdotal submission. The one where you think of all

sincere. I so desperately wanted to avoid exposing my overly cheesy tendencies. I wanted people to know that I truly enjoyed each and every day of law school. I wanted to convey to you that walking in these halls has been an honour that I never took for granted. I wanted to thank the admissions committee for taking a second look and deciding to take a chance on me. I wanted to thank those who allowed me to be a director in the legal clinic and serve on the LSA. I wanted to thank each person that helped making my four years such a positive experience.

I tried to write the perfect article – the one that will probably come to mind in about a week or so. I know that there must be some way to say all these things in a better way. I hope that you are able to read through these musings and really understand what I am trying to say. What I had hoped I could convey with a final witty and succinct contribution to the Quid.

So here I sit, on a Friday afternoon in the basement computer lab, still suffering from a bad case of writer’s block merely trying to say, “Thank you, good luck, and take care”.

I used to dwell on my past, and now I can only see the future – and smile.

my fellow students, the professors, and everyone else who is a vital part of the faculty. Many with whom I have shared a drink, a dinner, a study session, or a conversation. I would have tried to not get too sentimental about the fact that I will likely never see most of them after I leave this spring – as we each take our degrees and memories to go work in different cities, countries, etc. Inevitably, I would have also spoken about the friends that I have made. The kinds of friends that you know you will

those memories and past experiences that make you smile and hope that enough readers can relate and laugh along with you. However, while a funny person might be able to effectively relate an amusing tale or two, I am just not that witty. Although I was tempted to give it a good college try when it came to the early morning crank call after Skit Nite in first year.

When I envisioned writing this article, I thought it would just come out. I wanted to be original and

The 2nd Annual Trinketfest Review

by Mike Arnot, Law II

Avid readers of the Quid will know that last May I wrote a seminal article ranking the various trinkets given out at Careers Day. This article is not about Careers Day per se; you can draw your own conclusions.

It is, however, about the interesting things that law firms give away in order to lure unsuspecting students to their firms.

Without any further ado, the

top five good things and the top five crappy things:

GOOD THINGS

5. Blockpads - Weir Foulds, McCarthy and Others
Who can go wrong with a block pad? Perfect by the phone. An easy sell to willing students.

4. Gowlings whiteout strip and mug
I have to commend Gowlings this year. Last year, they were at the

bottom of the barrel, with a maroon coloured highlighter and pen combination. You are probably thinking “hey great idea...” but the pen lasted about 15 seconds longer than the highlighter, which broke on contact with *Legal Traditions of the World*. Shitty manufacturing....THIS YEAR, they brought in those whiteout paper strips, which are very useful, very expensive and very cool. I note that they were “handcrafted” in Mexico. Still, you get a cool whiteout thing, and a big coffee mug. Enough to earn

them number 4.

3. Tied for Third Place

Hicks Morley - Salary Ranking
Goodman and Carr - Paper Holder
Hicks only needed to photocopy the "associates survey" from Canadian Lawyer, which describes the working conditions etc. (\$\$\$\$\$\$\$) paid by each firm. Guess who finished on top, in this survey of dubious value? Hicks. And even if you don't believe it, check it out in the November 2001 issue of Canadian Lawyer.

Goodman's paper holder works AWESOME for typing up summaries around exam time. Load your notes into the black paper holder et voila, it holds them for you, making it very easy to read and type. Well done.

2. Department of Justice Ontario and the Feds - The Charter

This one was a close second to the Ogilvy T-Shirt. Credit goes to the Feds and the Province for this one - printed (and nice looking) copies of the Charter of Rights and Freedoms. Cool, simple and certainly better than the other crap given out (see below). Makes a point doesn't it...after all, after 5 years at Justice, you are guaranteed to have pled once before the SCC. Not bad.

1. The Ogilvy Renault T-Shirt

This year's winner. Not only is it a t-

shirt, but it also explains a little bit about the firm. You see, Ogilvy represents the manufacturer of these black beauties - Gildan sportswear, a local Montreal firm with a global grasp. Gildan is number 2 to Fruit of the Loom (read: they're huge)...and what a great way to promote the firm and a big client. Well done. The T-shirts are one size fits all.

AND NOW THE CRAPPY THINGS

5. McCarthy - Eggolk yellow highlighters

McCarthy hit a low this year. Last year, their highlighters were fluorescent yellow. This year, eggolk yellow. Yeech.

4. Stikeman - Frisbee

EFFING USELESS. We have boxes of purple ones in the pit from some other sponsor. Go take one.

3. Lang Michener Shoe polish and beetle clip

First, the shoe "polish" will melt your shoes. It's useless, so throw it away. And the beetle clips are "clips" for your sunglasses. They have Lang Michener written in big letters on them. Dorky....bad bad bad.

2. A Cube on a Stick - Oslers

While this cube is actually a nice looking thing, it qualifies as pretty much useless. It has an alligator

clamp to hold (s)craps of paper. Oslers had the NUMBER 1 gift last year - the Roots Key Chain...they represent Roots after all. As Adam Allouba astutely noted, "a Cube on a Stick", Nuff Said.

1. Borden Ladner Gervais "Block O' Iron"

FOR THE SECOND CONSECUTIVE YEAR ‡ the Borden Ladner Gervais "Block O' Iron".

A keychain so heavy, it will turn you into Arnold as you attempt to open your door. As I suggested last year, you could melt it down into iron rings, and pawn them off...or something. BAD. Obviously they didn't read the Quid last year....

HONOURABLE MENTIONS....

The Torsys circular paper clip...what a cool little invention. It's a paper clip that is...well...circular. You know...ahh forget it.

The Overly Packaged pocket light from who knows who cares. It's a white plastic mini-light keychain, wrapped up in plastic wrap. Both the light and the plastic are fit for the landfill...

And with that, this year's winners and losers from the 2nd Annual Trinketfest.

Les Pâques

par Colette Coanga, Law Special Student

Nous sommes à nouveau rentrés dans une période pascale. Ce qui veut dire que chacun de son côté, nous fêterons Pâques en 2002 comme nous l'avons fait en 2001. Et ce mot, Pâques, renvoie inexorablement à une ville et une seule dans le monde : JERUSALEM

Imaginons un instant

César rentrant en Mars 2002 à Jerusalem après quelques combats menés au nord d'Antioche. Que dirait-il quand il verrait Jerusalem si désolée? "Par jupiter, combien de légions faut-il pour remettre de l'ordre? D'où vient tout ce désordre?" Il y a quelque chose d'étrange de constater que l'ordre régnait à JERUSALEM avant 70 avt JC et que maintenant en 2002 tous les

croyants devraient s'habituer à voir cette ville ensanglantée. Voilà l'absurdité de nos temps modernes. JERUSALEM EST EN PROIE AUX SUICIDES. Ni Alexandre Le Grand, ni Cesar ne comprendrait ce désastre. En effet, ces deux stratèges des armées les plus puissantes avaient laissé pour compte ces tribus des montagnes (samaritains, galiléens, juifs). Elles refusaient d'honorer les

Dieux MARS et JUPITER, d'apporter des offrandes animales à ces Dieux. Ces tribus refusaient le sacrifice humain et animal. Ils ne s'enrolaient pas dans les armées grecques ou romaines.

Qu'ont-elles de plus que nous s'exclamait Cesar! et d'ajouter "leur Dieu ne doit pas empêcher nos chars, nos légions de profiter d'un repos guerrier sur ces terres". Les autres généraux romains (duce) renchérisaient: "Vous voyez bien que ces gens ne sont pas des

hommes. Ils sont plus faibles que des femmes". Les railleries fusaient en tout genre à l'endroit de ces tribus de bergers qui se querrelaient sans cesse entre-elles comme le rapportent CICERON et les scribes de Cesar, d'Alexandre Le Grand. Et maintenant en MARS 2002?? Faut-il interroger les oracles de DELPHES?

On se perd en conjoncture pour trouver une quelconque raison logique au drame et paradoxe de cette ville unique au

monde. VILLE SAINTE, VILLE DES PLEURS. Alors pendant ce jeûne pascal, je me demande encore une fois si JERUSALEM a une chance et une seule de rester VIVANTE. Une chance et une seule de passer des journées aussi ordinaires que celles de Chelsea ou de St Maurice... Quand? un jour...où Les Pâques retrouveront leur vrai sens. Et ce jour là sera vraiment saint. En attendant ce jour béni, faut-il laisser ce massacre se poursuivre?

Access Delayed = Dignity Denied

by Marta Juzwiak, Law III

I first met Tanny after a friend of mine told me about something unacceptable that had happened to Tanny last semester. I'll discuss this under heading "2" below, but first, let me introduce Tanny.

Tanny Marks isn't exactly like the rest of us. She has a disability, and she gets around using a motorized wheelchair.

Not one to let her disability frighten her away from pursuing studies, Tanny undertook an undergrad degree at Concordia where she enjoyed a positive experience. Concordia adheres to the philosophy that a disabled person should not have to deal with unnecessary barriers. Tanny says that whenever she had a problem at Concordia, the matter was taken care of "pronto." However, at McGill Law, the lengths she has had to go to in order to have her concerns and requests dealt with have left her feeling frustrated and exhausted.

It's Tanny's last month here, and before she leaves, I think we should all pause to think about what it would be like to be confined to a wheelchair at our Faculty.

As wheelchair bound students, we would never see the inside of Professor Macdonald's apartment-sized office.

We would have to rely on the freight elevator, which breaks down a few times a year (with people inside it), in order to make our way around New Chancellor Day Hall.

We would have to risk life and limb crossing Peel in order to get to the law bookstore, where we would have to find a way to get down the stairs into the basement. We certainly couldn't do it with our motorized wheelchair.

We might never learn what the moot court looks like from the bottom floor, since the lift in there can't accommodate anything but the smallest of wheelchairs (note that due to the efforts of several good people, this situation will be remedied soon, although not in time for Tanny).

But, worst of all, we might find that most people don't care about our disability-related problems.

Tanny has special needs, and it is our collective obligation to make sure that these needs are anticipated



and met. I asked her to outline the areas in which the Faculty is failing to do this, and to suggest improvements. She came up with a few excellent suggestions.

1. The Faculty should alert professors to the presence of disabled students in their classes and make it clear that the onus of accommodation rests upon the professor's

shoulders.

Tanny tells me that in contrast with other McGill faculties, the Faculty of Law has a policy of non-disclosure. When a professor has a student with a disability in his or her class, the Faculty will not disclose this fact to the professor ahead of time, and will not ask the professor to accommodate the student's needs. The faculty takes the position that it's impossible to implement a procedure of disclosure without impeding the rights of disabled students. Other faculties have dealt with the issue by leaving it up to the student to decide whether he or she wants professors made aware of his or her disability.

As a result of our faculty's non-disclosure policy, Tanny has to take the initiative when disability issues arise. She has had to ask professors to distribute hand-outs in a way that is accessible to her (*i.e.*, not at the front of the room).

2. Instruct professors who teach practical courses dealing with courtroom demeanour to modify their course material appropriately when they have disabled students in their classes.

That didn't happen last semester, when Tanny took a practical litigation-type course. The professor wasn't advised to accommodate her disability in his discussion of courtroom demeanour. When he told

students to stand, he didn't tell Tanny what she should do in light of her obvious disability. Reasonably enough, it never occurred to Tanny that anybody would expect somebody in a highly visible motorized wheelchair to stand. The course was graded largely on each student's performance in an oral argument at the end of the semester. When Tanny failed to stand for this oral argument, the lawyer who was judging the exercise was *offended*. He made his offense clear when his evaluation of Tanny's performance focused primarily on her disability and her failure to make *him* feel comfortable with it.

To prevent this from happening again, Tanny would like to see tutorial leaders in legal methodology, professors in hands-on litigation courses, and visiting judges given clear guidelines on how to instruct and deal with disabled students. To me, it seems only self-evident that what the lawyer who judged Tanny said was wrong. Tanny should not be expected to apologize for her disability. If that's what the court system expects, the court system is wrong.

3. Be more willing to issue apologies to students when appropriate.

It took two months of pestering for the faculty to apologize for the experience Tanny had during her oral argument. In my opinion, when somebody who is grading a student

expresses discriminatory sentiments, the student should be issued an *immediate* apology and, if the student so desires, he or she should be given another chance to be graded on the exercise.

As one of my psychology professors used to say: "it doesn't cost you anything to preserve someone's dignity." He was right.

Conclusion:

The following are Tanny's words, which I think capture the heart of the matter:

"It is taxing on the student with the disability to get the solutions he or she needs. We're talking about an academic institution that should afford protection to people with differences as it does to people without differences."

In short, disabled students should not have to find ways to accommodate their own disabilities. Others have to think of them too. Others have to listen to them. And, most importantly, if we want to accord the disabled members of our student population the dignity which they deserve (and the dignity to which, incidentally, they are entitled under the *Charter*), we all have to respond to their needs as quickly as possible. This means we have to make the comfort of disabled students a priority, not a peripheral issue.

LSA ANNUAL

GENERAL ASSEMBLY

mercredi, le 4 avril, 2002

12h30 - 14h30

Maison Thomson, deuxième étage

Everyone is welcome to the last LSA meeting of the year. Come check out the glamour that is the LSA Council. Witness the thrill of an impeachment spree!

THE not-to-miss event of the season.

Ethelred the Unready Flirts with Danger

by David A. Johnson, Nat IV

"The first duty in life is to be as artificial as possible. What the second duty is no one has as yet discovered"
-Oscar Wilde

Ethelred badgered the scruffy caddy Wigrick for ideas about how to get golf equipment quickly. Wigrick stated flatly without blinking, "Sir, I have a cunning plan. It is as cunning as a pack of cunning foxes, dancing on the roof of a chicken coop and singing *Cunning Plans Are Here Again*." Ethelred had ants in his pants and asked "Yes, well, what is it?" Wigrick whispered, "Well sir, you go to the Pro Shop and charge everything to the firm. That is what all the lawyers do." Ethelred was weighing the Gordian knot of skepticism and jetsam, the latter because it resembled Wigrick. In a minute, Ethelred spluttered "munificent brilliance" and jumbled with "make it so", becoming immediately cross with himself for exploiting Hadrian's vernacular.

In the Pro Shop, Hadrian was there, testing some titanium clubs and remarking how work in Mysterious Ways. Hadrian pointed out two celebrities from Ontario, Mr. & Mrs. Champ. The former, the former boxer, who was getting ready to implement a flurry of blows to the solar plexus to an impudent scalliwag who made a suggestive innuendo to Mrs. Champ about some film called "The Full Monty Python". The shop had everything including a rack of Sod Off stain remover. Hadrian convinced Ethelred to purchase a sequined glove with his usual aplomb. Ethelred saw a pot-bellied man "adjust" his plus-fours next to

the tees. Didier helped Antonia on with her minxish mink from Milan. Apollo leaned against a Sub-Zero refrigerator, chewing Paean bubble gum, watching the action fibrillate.

After several holes, Ethelred's foursome plodded wearily along. Gilligan was in the bag by the sixth. There were no mosquitoes around him. Guy was stressed over his

ANNIE MACDONALD LANGSTAFF

INDIGNITIES:

**USING TORT TO REMEDY
RACIST & SEXIST ASSAULTS
ON DIGNITY**

PROFESSOR DENISE REAUME
FACULTY OF LAW, UNIVERSITY OF TORONTO

**MARCH 27 @ 12:30 P.M.
ROOM 202 NCDH**

NAMED IN HONOUR OF THE FIRST WOMAN LAW GRADUATE AT MCGILL (1914), WHO WAS DENIED THE RIGHT TO PRACTISE IN QUEBEC BECAUSE OF HER GENDER, THE WORKSHOPS PROVIDE A FORUM FOR SCHOLARLY RESEARCH AND PRACTICAL INSIGHTS ON SOCIAL JUSTICE ISSUES.

PRESENTED BY THE MCGILL FACULTY OF LAW IN ASSOCIATION WITH
WOMEN & THE LAW/FEMMES & DROIT AND THE INSTITUTE OF COMPARATIVE LAW

ATELIER 2001-2002 WORKSHOPS

bankrupt clients and, in particular, about how he was going to get paid. The heat of the sun, glaring on his wrinkled forehead, caused him to forget the ranking of creditors. Wiping his golden pince-nez, Leopold was applying his little grey cells, a T-square and a compass to calculate the velocity of his drives while simultaneously calculating the depreciation on his nine iron. Ethelred's balls went everywhere.

On the approach to the densely wooded and hilly 13th hole, Ethelred heard a muted mewling somewhere after Hadrian's distant "How about a Sledgehammer?" and "Bring It On Home" cheers on the green faded away. Hadrian was having a rorty time. Ethelred asked the team for a short pause to estop play. Gilligan took a last draw on his amber nectar but adeptly found a second plastic

vial concoction covered by a homemade label with "Ivanhoe" written in purple crayon. Giddy up!

Ethelred followed a narrow path, dotted with candytuft, datara and flixweed into the *terra incognita*, and crossed the Thor Bridge over a stream. The mewling increased in intensity. Ethelred entered the grove and was greeted by the roar of the Reichenbach Falls, water crashing into a pool and snaking like an esker. Me Robidoux was perched dangerously close to the falls on a precocious precipice composed of shale and hematite. She was on the ground clutching her leg. A clamorous rattling could be heard despite the gushing of water. A mongoose skittered across the path like a law professor in the wrong lecture room.

An array of chattels confronted

Ethelred's astounded peepers. Littered around was: a replica of Wayne Gretzky's infamous aluminum stick leaned against a tree; six Napoleon busts; a bulletin explaining the 6 of 10 point system for Canadian content; a figurine of Bossk; Donovan's saffron and a case of cream soda – half red and half clear. Mr. Tinkertain's *chapeau-bras*, replete with fly-catchers and Nazeranna patch, was floating in the middle of the pool. Ethelred could only gasp *in nullius bonus*. Suddenly, a thunderous sforzando crack came from behind Ethelred's left shoulder.

And then ...

Poem

By Alex Law, Law I

As I write this, it is freezing cold outside, and the Peel Street sidewalk is once again an ice rink. However, it is technically spring, and by the time you read this it could be sunny and twenty degrees outside. Love that Montreal weather! In celebration of the coming spring melt (and it is coming...), and in the hope of a pleasant exam period (ha!), I offer two short poems:

#1

There lives an old man in Verdun,
Whose work will never be done.
He walks down the road,
Where the doggies all go,
Picking up turds one by one.

#2

How success measured?
Distant butterfly flaps wings,
"A"s fall from the sky.

Two Final Thoughts

By Rebecca Hare, Law III

First, can anyone explain to me how the LSA is entering into a \$75,000 agreement with the University without consulting the people they supposedly represent? Does anyone know the details of this agreement? What exactly did the Gilman administration agree to give the University in exchange for this wad of cash? Some of you might be particularly interested to know some of the juicy little details of this agreement, particularly those of you who...well, I've said too much already, but you'll know everything sooner or later. My guess is later,...much, much later.

Second, I thought people might like to know that I am not the only NKOTB enthusiast in the faculty. As evidence, I offer the following (taken from the Quid inbox):

The first comes from Jeremy Waiser -

"You are a GOD IN HUMAN FORM, and your idea to support the renewed glorification of NKOTB is as brilliant as the glow that exudes from your aura." This one might have to be taken with a grain of salt given that the glow exuding from my particular aura is known to be toxic.

However, this next little gem is pure, unadulterated NKOTB worship. Stephen Panunto had this to say-

"Of course NKOTB rules! How else do you think I got any girls in high school? (and don't you think Joey is soooooo cute?)."

ANIGAV

Bridget Jones Graduates from Law School^{*}

By V. Henderson, Esq. & N. Lachance, Nat IV

Thursday 21 March 2002

129 lbs. (wishful thinking), alcohol units 4 (ok), jobs 1 (g.), bf 0 (super), lessons learned: infinite.

Four years.

Four outstanding years coming to a close.

Experienced above epiphany/moment of clarity some time last week, off coast of Waikiki. Ocean was calm, so tanned native boat boy let Hermia, Lillian and I dive off catamaran into sparkling ocean for glorious swim. (Was less like catamaran and more like floating bar, actually, and really feel that mai tais consumed on board made whole experience more authentic.) Water truly delicious (or maybe it was the Hana Bay rum?). Could not stop laughing. Clad in Burberry bikini (am going to be working for IP litigation boutique, so figure is best to familiarize self with trademarked plaids), I tread water and threw my head back and laughed. Below me, water absolutely clear, and giant turtles swimming by. Then it dawned on me – and forgive the cliché – the world is my oyster. Literally.

Apart from learning law, have been fortunate enough to make some v. special friends. Friends who go beyond sharing class notes. For eg., bosom friend Hermia has taught me that solicitous celibacy really the only way to avoid becoming involved with addicts, perverts, fuckwits, alcoholics and emotionally unavailable sexually incontinent males, and that such

prolonged celibacy, coupled with full immersion in scholastic pursuits, will ultimately enable me to form functional relationship with fully capable adult male who is none of those things. Hermia herself has demonstrated success of said technique, as

Self: *Cannot help but feel a little lost.*

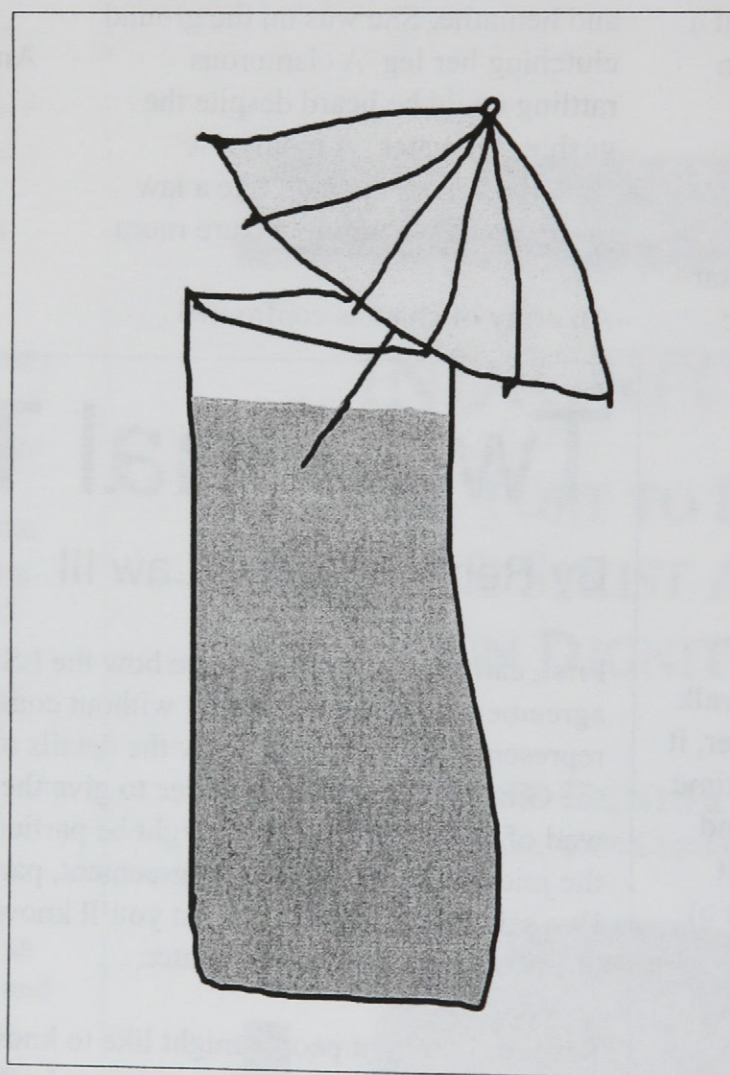
Hermia: *Oh for God's sake, Bridget. There's no need to get all dramatic. Just finish up in April and go to work.*

Self: *You do realize that when I worked at the firm last summer I had absolutely no idea what I was doing. No idea. Won't they figure it out?*

Lillian: *Dollie, now you are being perfectly ridiculous.*

Hermia: *This is so typical. Intellectually, you know you are capable. Yet, our patriarchal society has conditioned you to self-doubt. The burden then becomes to show colleagues that we are self-assured women of substance in an effort to beat down the stereotype of the girl who sits at her typewriter and looks adoringly up at her boss. This is unacceptable.*

Lillian (pouring all another glass of pineapple Chardonnay): *I think we can make it, ladies.*



firm-buttoxed management-side labour lawyer bf has recently bought her Tiffany™ toggle necklace. In addition, Lillian has taught me that perseverance and a good haircut will ultimately pay off in form of articling position w/ top firm.

So now what?
Is there more?

1 am, Duke's Barefoot Bar, updated alcohol units 7.

Agreed. In the end, all the handsome, muscular twenty-one-year-old junior college-attending surf instructors in the world could never add up to the thrill and challenge of beginning my legal career. This is just ten times better.

Congratulations, class of 2002. We did it!

^{*} With apologies to Helen Fielding.

Chica makes Pino and Matteos Proud

by Stephen Panunto, Law II

Chico Resch's season came to an end last Friday night, but not before they had accomplished what no Chico team had ever done before: advance to the semi-finals. Chico managed a 4-3 victory Tuesday night against the third place *Coloniales*, but fell to second place *Energy Guru 2* in a heart-breaking 3-2 loss.

Tuesday's win came thanks to a great team effort. While *Les Coloniales* took 1-0 and 2-1 leads on

goal, going top shelf on the short side a mere 30 seconds into the game. A tight-checking period ensued, and at the end of the first period, Chico clung to a one-goal lead. However, *Energy Guru 2* (whatever that is) did not finish second for no reason: they tied up the score early in the second frame on another fluky shot from a sharp angle through a crowd of legs. Brandon restored our one-goal lead almost immediately, but the lead was

captain, managing to toe the sometimes tenuous line between winning and getting everyone ice time. **Dixter** was a scoring threat every time on the ice, and managed to take care of the defensive side of the game as well. **Dinesh**, probably the fastest player on the team, brought an aggressive forecheck and a fine scoring touch to the team – he lead us in playoff scoring. The second line of Gregoire, Sandy and Jono would probably be



fluky goals, Chico fought back to tie both times, and after giving up the tying goal at 3-3, managed to hold on to a precarious 4-3 win – thanks to some desperate last minute play in our own end, and especially thanks to shot off the goalpost with 30 seconds left. The game's third star went to **Sandy** who had another goal and assist and seemed to be all over the ice again. The second star went to the goalie, **Panger**, who was solid in net (it must have been the helmet). The first star was **Greg**, thanks to his goal and assist, with three tomahawk chops thrown in for good measure. Chico followed up a great effort and came out flying Friday night. Jason, taking Sandy's usual place on the second line, scored a highlight reel

not to last this time. On what was probably the closest thing to a defensive breakdown Chico suffered all game, a *Guru* forward managed to collect his own rebound and fire a shot past the Chico 'keeper, tying the score. A few minutes later, *Guru* scored the game winner and Chico could not respond.

While the whole team was disappointed by the loss, it was small comfort to know we were the best Chico team ever, and that we played without one of our best players, Sandy. Every single player deserves recognition as a star for their season-long contributions. The top line, aka the Vegan line of Cam, Dixter and Dinesh carried the team at times this season. **Cam** was an awesome

the first line on many other teams. **Gregoire** brought Yzerman like talent to the line, probably the most complete player on the team – which is why he is next year's captain. **Sandy's** aggressive style high talent level complimented Gregoire perfectly – and he also ensured that no one intimidated us. **Jono** was the veteran presence to complete the line, always skating hard and leading by example. Brandon centered what was ostensibly out third line (which was by far the third line in the league), between John and Antoine. **Brandon's** heavy shot made him a threat to score from anywhere (he scored top corner on me from outside the blue line!) **John's** versatility was indispensable, as he spent the first

half of the season on defense before moving up front, where he continued his solid play and scoring touch (plus he brought our only devoted fan, **Becky** – thanks for coming out and freezing your butt off!). **Antoine** completed the line, adding yet another scoring threat from the wing. The real strength of this team was in its defense, though. While **Jason** made many of his teammates cringe (especially his goaltender) with his end-to-end rushes, he seldom got caught up ice and created numerous scoring opportunities, while playing

air-tight “D” when he was not rushing. His partner, **Greg Rickford**, was the old reliable defenseman, very getting caught out of position and always willing to clear the front of the net. It is clear from his presence in the dressing room that he is a future captain of Chico Resch. After moving back from forward to defense, **Dan** established himself as the complete package: he was always in position, lead the rush when the opportunity presented itself, and always seemed to make the perfect outlet pass. And last, but in no way

least, was out MVP, **Adam**. What can I say that has not already been said? We wouldn't be here without him – and my GAA would not so closely resemble my GPA.

The last word must go to thank **Pino & Matteo** for sponsoring us this year (and I heard that they will again next year, hint hint). So next time you pick up a salad at **Pino & Matteo's** (our secret weapon), thank them for supporting us. And we'll be back to win it all next year!



Goodbye, Farewell and Amen

By David A. Johnson, Nat IV

"I am immensely fond of you all and that eleventy-one years is too short a time to live among such excellent and admirable hobbits. I don't know half of you as well as I should like; and I like less than half of you as half as well as you deserve"

-Bilbo Baggins

Law school has passed by very quickly. Is it time, as an interested student, to plug alumni affairs in general already? It must be since we will be donating some funds shortly for our Class Action. In any case, a law directory or bottin of law graduates is notoriously absent at our law school. This is “goodwill” typically found in many professional schools including those bean counters down the hill. As soon to be graduates (a very loud knock on a tree), such a directory will be useful to stay

in touch whether professionally or socially. After dipping our toes in the bureaucratic waters, we (Heather Cooper, Hilary Stedwill, ILS et al.) discovered that many departments in the faculty (and Martlet House) need current information about graduates. However, there was no one central depository and, therefore, many different places with incomplete and different information. To make a rambling story to the point, Martlet House (i.e. Department of Alumni Affairs for all of McGill) is in the process of revamping its system to produce such a project on the web. In the meantime, please fill out those graduation surveys and class lists to keep your information accurate.

Here is one post-graduation event in the works for those of you interested in international law. Please join the Canadian Branch of the International Law Association

(“ILA”) in hosting the biennial World ILA conference in Toronto in 2006 (Montreal had it back in the 1980s). The conference this year is being held in New Delhi, then in Berlin in 2004. For more information about the organisation's activities, check out www.ila-canada.ca (Canadian Branch), www.ila-hq.org (the Secretariat in London) and www.ila2002.org (New Delhi Conference).

Please be ethical in our privileged and dignified practice. Good or bad ethics reflects upon all of us. Good luck in the future.



The McGill Law Journal Presents

Kent Roach

Author of *Essentials of Criminal Law*
and

Witness before the Senate Committee Hearing over the New Canadian
Anti-Terrorism Bill

“Did
September 11th
Really Change
Everything:
Enduring
Challenges for
Canadian Law,
Courts and
Democracy”

As part of its Annual Lecture
Series

Wednesday, March 27, 2001
at 1 p.m.

Moot Court, New Chancellor
Day Hall, 3644 Peel Street
(corner Dr. Penfield)

Admission: Free

With Cocktail reception to
follow, sponsored by Osler
Hoskin and Harcourt LLP

The McGill Law Journal Presents:

"Did September 11th Really Change Everything? Enduring Challenges For Canadian Courts, Law and Democracy"

Kent Roach

Kent Roach is a Professor of Law and Criminology at the University of Toronto who has written widely on criminal and constitutional law. He was a co-editor of *The Security of Freedom: Essays on Canada's Anti-Terrorism Bill* and appeared as a witness before the Senate's Special Committee on the anti-terrorism bill.

The lecture, entitled "**Did September 11th Really Change Everything? Enduring Challenges For Canadian Courts, Law and Democracy**" will be held on **Wednesday, March 27, 2002 at 1:00 p.m.** in the Moot Court of New Chancellor Day Hall of the Faculty of Law of McGill University, 3644 Peel Street as part of an Annual Lecture Series organized by the *McGill Law Journal*.

"The federal government's legislative response to the terrorist acts of September 11 poses fundamental challenges for Canadian law, courts and democracy. New and potentially

dangerous concepts including investigative hearings, preventive arrests and broad motive-based crimes have been introduced into the criminal law. Senior members of the judiciary have already warned of the challenges that await the courts in the administration of anti-terrorism laws. Concerns have also been raised about the robustness of Canadian democracy and autonomy in the face of the new war against terrorism. In this lecture, these particular challenges will be situated in a larger context of trends affecting Canadian law, courts and democracy. Professor Roach will argue that although the challenges of September 11 are particularly dramatic and intense, they are not fundamentally different from those faced over the last decade. Well before September 11, it was clear that neither fundamental principles nor the courts would save us from ourselves. It will be suggested, however, that the appropriate response is not despair or resignation,

but heightened vigilance within civil society."

The lecture, which is open to all and free of charge, is organized annually by the *McGill Law Journal*. This publication, founded in 1952 at the Faculty of Law of McGill University, is bijuridical and bilingual. Its objectives are to promote high-quality legal scholarship, to encourage original research and understanding of the civil law and common law traditions, and to provide a forum for critical analysis of private, public, and international law issues. The event will be followed by a reception in the Atrium, sponsored by Osler Hoskin & Harcourt LLP.

For further information, please contact Jessica Peterkin at the *McGill Law Journal*:

Telephone: (514) 398-

7397

E-mail:

jessica.peterkin@mail.mcgill.ca

Email for Life

McGill alumni get an email address "for life" that makes keeping in touch with colleagues quite easy. However I am not sure that all students know about this nice little perk from McGill, so I asked the university computer braniacs to explain how it works. This is the email response that I received:

From what I see, you're have not graduated from McGill University yet, so you do not have what we call an ELF account. What you are mentioning when you say eric.gilman@mail.mcgill.ca is your

UEA (uniform e-mail address). I will outline what you have in terms of e-mail below:

egilma@po-box.mcgill.ca: your student po-box account. This account was given to you when you started as a student at McGill.

eric.gilman@mail.mcgill.ca: this is your chosen UEA. It is a forwarding address ONLY and not a mail account. It forwards mail to your egilma@po-box.mcgill.ca account currently although you can choose to have it forward elsewhere. If you

wish to keep this address for the rest of your life, you will have to graduate with a degree at McGill University.

eric.gilman@elf.mcgill.ca: this will be your ELF account when you graduate from McGill University. At the moment, you do NOT have this account. What generally will happen is that when you are put on the graduate list, you will have mail sent to your e-mail address on record saying that your ELF account is active and that you can switch over to it from your po-box account. The steps involved for most people will

LSA AWARDS

Nominations will now be taken for the following awards:

Alan Neil Assh Award

Awarded to any student who has contributed to sporting endeavors of the Faculty during the year of the award. Up to four awards available.

Patricia Allen Award for Participation

Awarded to any student who has contributed to the Faculty community through participation in extra-curricular and co-curricular activities in the year of the award. Up to six awards available.

Law Student Association Graduating Student Award

Awarded annually to students in their graduating year who have made outstanding contributions to the life of the Faculty during their years of study. Up to four awards available.

Those people wishing to nominate students for these awards should fill out a form found in the VP Administration's box in the LSA Office. Nominations will be taken until Wednesday, April 4, 2002 at 3:00. For more information, please contact Regina Skerjanec, VP Administration at skerjar@lsa.lan.mcgill.ca or at 845-9616.

be changing the forward on the UEA's to the elf account from po-box and putting a forward on the po-box account to the elf account. You will be given further instructions on how to access the account in the future.

The reason why we have UEA's is for the convenience of the students. When a student graduates, the po-box account becomes inactive soon after and then the student has to send e-mail out to all his contacts saying "Please note the address change..". With this UEA system, all you have to do is give out the UEA once at the

beginning to your contacts when you receive it and when you graduate, the UEA remains with you for your entire life, thus bypassing the need to change e-mail addresses all the time. You simply have to change the forward on the UEA from the po-box address (which will expire after graduation) to whatever address you want (whether it be the elf account (which you also have for your entire life once you graduate) or a new work address or a hotmail account).

Your po-box account will probably expire sometime around December if

you are graduating in the Spring. So you have 4-5 months more of po-box usage, and then it will shut down. However, your ELF account will be active as of April sometime, or whenever we receive your name on the list of graduating students. So if you want you can forward your po-box to your ELF account once that is active. You can do that by going to the <http://webmail.mcgill.ca> website. Click on the POP3 po-box.mcgill.ca link towards the bottom of the page.

A Certain Justice

by Edmund Coates, Nat. IV

A story tells of an E.U. committee wrestling with a thorny problem of European integration. Finally, a woman lays out a solution. Immediately, another bureaucrat objects: "I can see that it will work in practice, but can it work in theory?" On 14 March, Peter Birks, Regius Professor of Civil Law at Oxford University, spoke at the Law Faculty on "Conscientious Enemies of the Rule of Law".

Around the world, courts now accept direct appeals to certain general concepts in deciding some cases. These judgments turn on words pitched at a high level of generality (such as good conscience, good faith, equity, unjust). Birks targets this use of "big words", as hostile to the rule of law.

Birks sees, in law, a set of structures formed by ascending orders of more and more general principles (the orders are related as genera and species). He uses, as an image, a type of Christmas decoration: a spiral that forms a cone (with the cone's point downwards). At the broad top of the cone is the most general normative "should", at the pointed bottom of the cone is the

most concrete description.

Birks gives examples of the ascending generality spiral. In *Donoghue v. Stephenson*, Lord Atkin begins with the principle of "love thy neighbour", he specifies this down to the neighbour principle. Then Atkin specifies the neighbour principle down to the question of the manufacturer's duty of care, on the proposed facts of the case.

In *Hedley Byrne v. Heller*, Lord Devlin warns that we abuse generic concepts, such as the duty of care, when we apply them directly to fact situations. These concepts serve solely to guide the progress of authorities from above, as the common law inches forward.

Moses v Macferlan 97 E.R. 676 stands as a founding authority of the action for money had and received. Yet, critics accuse Lord Mansfield's judgement of having launched the courts onto the open seas of determining what is just and unjust. These critics fail to see the sandwich-like structure of Mansfield's reasoning. Mansfield begins with the principle against unjust enrichment. But he then moves down one level, to examine a series of cases that fall under the principle

against unjust enrichment. Mansfield sums up the type of action in these cases, as one where "the defendant, upon the circumstances of the case, is obliged by the ties of natural justice and equity to refund the money." He then shifts down one level, to find that the facts before him fit the intermediate principle, and he thus finds that the defendant must refund the money.

The higher levels of principle are important because they lead to the development of the law, allow the law's open textured concepts to resonate with each other, and ground judge's explanations of incremental adjustments to the law. The higher levels serve to canalize the lower levels, finally restricting the judge's discretion, at the level of the specific case.

When judges ignore the higher levels, the law goes dead. An example of this is Lord Buckmaster's dissent in *Donoghue v. Stephenson*. Buckmaster looks to the decided cases, to see whether he can construe them as supporting the plaintiff's case. He sees the cases as a series of islands, and overlooks the need for evolving principles to tie them together: "the principles [of the

common law] cannot be changed nor can any additions be made to them because any particularly meritorious case seems outside their ambit". Birks criticises Buckmaster for ignoring the norms, within the common law, which provide for incremental change in the common law's principles.

Birks rejects an attack made against his own writing on restitution. He is accused of having drained the doctrine of unjust enrichment of all its normative content. Birks compares the attack made on him to one made on Lord Wilberforce. Wilberforce

planning transaction. The court finds that the receipt of the property was unconscientious, but does explain how it reached this finding. Another case involves the enforcement of security on a family home (as against a sophisticated, but non-debtor spouse). The court finds that the bank acted unconscionably in the taking of security, but the court does not explain how it reaches that determination. Birks asks whether the hidden message of such cases is the creation of a category of "ex post unconscientiousness". Even where transactions bear no moral taint, their

defects, for a high price. Should he have informed the buyer of the defects?

Cicero compares the responses, to the examples, of two Stoic philosophers: that of Antipater and that of Diogenes of Babylon. Antipater appeals to the fellowship of beings and the common advantage, to argue that sellers must disclose what they know. Diogenes answers "the alliance you mention is surely not of the kind that forbids a man to possess anything of his own? If it does so forbid, then nothing should be put up for sale at all; everything should be given away". (1) For Diogenes, the sellers' silence would be advantageous without being wrong.

Cicero says that he agrees with Antipater. But Cicero says that he cannot say why Antipater is right (at least according to Birks's reading). Birks points to Cicero's inability to give reasons, as an example of the rational unjustifiability of moral decisions (when we try to base the decisions on our most general notions of justice). Birks asks, rhetorically, how we could choose between Nozick and Rawls.

For Birks, people will never agree on moral positions. But the law must make decisions day by day, and cannot tolerate visceral decisions or unending debate. The law must follow its authorities or otherwise it will find itself in altogether too deep waters. We must ask what judges are for, and what kind of legitimation we want judges to have. For Birks, judges are experts in working out the reason of the law. To invoke big words, in cases, is just to ask the judge to use her own conscience. The resulting judgments make it impossible to plan anything. You can only plan if the judges' concepts are so intelligible that we can rely on them in detail.

Birks's example from Cicero suffers from problems. Paragraph 57 of Cicero actually reads: "The answer, then, seems to be that the grain-dealer should not have concealed the facts from the Rhodians, and the vendor of the house should

The principles [of the common law] cannot be changed...because any particularly meritorious case seems outside their ambit.

said that the law of negligence only establishes prima facie liability, and that for final answers you must look to the case law. Birks agrees that the general principles of the common law, for example those of unjust enrichment, are normative. But Birks insists that the principles are only weakly normative, "in a Dworkinian sense". The open textured general principles should have no consequences except to guide the incremental progress of the cases, from above.

Birks, and other restitution scholars, expected much from the English Court of Appeal in *B.C.C.I. v. Akindele*. The facts of the case would have permitted the court to make a major contribution to the theory of unjust enrichment. Instead, the court simply asks if the receipt of the money was unconscionable. Birks finds this reasoning inadequate. If the judgment had come to him as a student paper, he would have had the student start over.

In an Australian case, the court sets aside a complicated estate

eventual results play out in a way which leads the court to reverse the transactions. For Birks, such circular judicial reasoning gives no guidance whatsoever.

An objector might claim that these appeals to unconscionability are no more general than the appeals to reasonable foreseeability of tort law. Birks replies that unconscionability is on a completely different level of uncertainty. Birks then displays the particular uncertainty of unconscionability with a pair of examples from Cicero's *De Officiis* (On Obligations). In the first example, there is a famine on the Island of Rhodes. A merchant has brought grain there on a ship and is selling this food. But he knows that other grain ships are on their way to Rhodes and that they will soon arrive. Must the merchant inform his buyers about the other ships, or can he keep quiet and take in a high price? In the second example, a man knows that his house is both unsanitary and built of bad timber. He sells his house to someone who is unaware of these

not have concealed its defects from the purchasers. Concealment is not just reticence, for by it you seek to further your own interests by ensuring that your knowledge remains hidden from those who would benefit from it. Is there anyone who does not see the nature of this concealment, and of the sort of man who practises it? He is certainly not an open or straightforward person, decent, or just, or honest; on the contrary, he is crafty, devious, sharp, deceitful, malicious, cunning, wily and artful. It is hardly useful, is it to hear ourselves stigmatized by these and many other terms descriptive of our faults?" (2) I this passage Cicero hardly says that no arguments point towards disclosure. Rather, the passage makes arguments for disclosure (what kind of person are you choosing to be when you keep silent). The passage then denies there can be a reason for keeping silent (even advantage points the other way: "it is hardly useful").

Yet Birks's argument cannot rely on the dispute between Antipater and Diogenes either. The classicist Julia Annas shows that Cicero misunderstood Diogenes's and Antipater's purposes. (3) Cicero constructs an exchange from the works of each philosopher, but the philosophers actually use the same situation to each talk about different types of duty. Antipater argues that there is a moral duty to disclose, while Diogenes argues that there is

no legal duty. In fact, it seems more probable that Antipater and Diogenes agreed, in their judgments on the examples, than that they disagreed. Cicero just has them talking at cross-purposes.

What should we make of Birk's arguments? In fact, law works as an oversimplification. Law decides claims, in spite of the complexity of our needs and relationships. Law copes with conflicts between incommensurable values. This necessary oversimplification means that law must tolerate a number of contradictions, although to some degree it can shift their locations. Most of the time, sensitive interpretations of precedents and statutes suggest ways to manage these contradictions. But from time to time a contradiction will defy smooth management. (4) The judge can then engage in a mummery transparent only to the initiates, and declaim loudly that logic forces her to decide in a particular way. Or, she can fall back on her carefully schooled, rational, sentiments, to guide her to what is just, equitable, conscientious, in good faith. As time passes after her decision, we will relate the decision to cases that came after it, and steadily draw out its reasons.

Wholly incrementalist approaches to the progress of law overlook the problem of path dependence. When a series of related questions arise over a period of time, our decisions on the early questions

often obscure or even block off some of the alternative solutions to the later questions. Occasionally, the great principles of justice need to strike directly in individual judgments. A furrow in which the law moved from judgment to judgment will have grown too mean and narrow. Some theories hold that our law can both steadfastly stick to a sedimentary progress, and remain constant to justice. A greater humility admits that our law cannot always provide thoroughgoing certainty; that certainty must occasionally yield to humanity.

(1) *On Obligations (De Officiis)* trans. P.G. Walsh. Oxford: Oxford University Press. 2000. at 102.

(2) Ibid, at 103.

(3) Annas, Julia. "Cicero on Stoic Moral Philosophy and Private Property" in *Philosophia Togata* ed M Griffin & J. Barnes. 151. There problems with identifying an opinion given in *De Officiis* as Cicero's personal view, as opposed to Cicero's working out of what a Stoic should say (taking for granted the assumptions of Stoicism).

3) Ibid at 164.

(4) E.g., "The Double Jeopardy Clause, Constitutional Interpretation and the Limits of Formal Logic". 26 *Valparaiso University Law Review* 281 (1991).

Chess

by Pablo Bustos, Law III

The last Quid came sooner than I thought it would. In fact, I don't even know when classes end. What I do know is that April 29th is my last exam, and thus my last day as a law school student, although I still have bar school, and probably will be learning about the law all my life. Since early September I have submitted a weekly Chess Corner where I have written about many things, including guns, cloning, famous

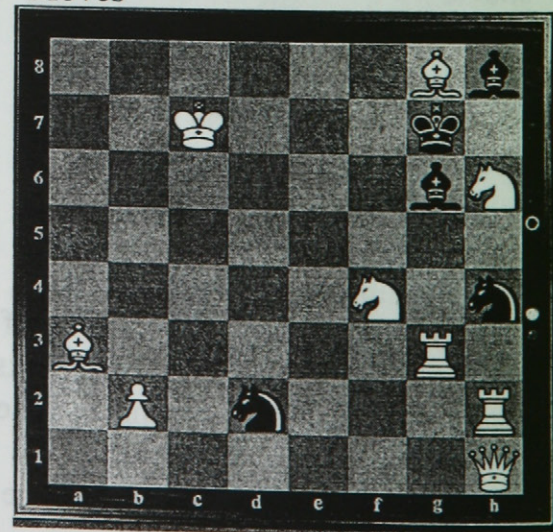
Pablos, and other subjects. However, the one thing that remained constant in every Chess Corner was that I always presented a chess problem and a solution.

I recently pondered why I like chess so much. There are many reasons. One is that the rules are objective. Another is that nobody tells you how to use the rules.

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by Martin Greif.

White to Play and Mate in Two Moves



Solution on back cover.

Yale and Pass /Fail

The following text is an email sent last March by Gregory Cleaver, first-year class president at Yale (it's not edited in any way so you'll have to excuse the rather informal style of emails). I wrote to him last year in preparation for an article I wanted to write on the grading/ranking issue. I never got around to finishing the article and as a result Greg's message has been rotting on the faculty's F: drive for twelve months. As the newly-established grading committee reflects on the issue, I thought it might be useful to pull it out and have all interested parties take a look at what an insider thinks of a Pass/Fail grading system.

J. Lussier

Hey there Jerome!

I'm glad to help out in any way that I can. I'm not sure what the history of the grading system is (i.e. when it was established, etc...). For that information you will probably need to talk to someone in administration or the registrar's office. Also, the comments I'm making are not in any way official, they are just the musings of one student.

In a way, we are very lucky that we are at Yale with this system. You ask about the general impact on Yale's reputation and I think it has none or a negligent effect. Yale's reputation is so well established and the Admissions process so selective that these things trump any sort of reputational effects that such a grading system might have. The reaction from law firms and employers/judges is mild. Once again, based on the reputation and how hard it is to get into the school, I don't think the grading system hurts our chances of finding a job. It does, however, make it a little difficult to know a lot about the student applying. If you have a bunch of P's on your transcript, it doesn't distinguish you very much in any real area, and certainly not from other Yale students, let alone students from other universities. Thus, students that wish to distinguish themselves find other ways through articles, clubs, activities and reading groups. It is important to note that here, while it is a system of Honors/Pass/Low Pass/Fail, nobody ever gets below a Pass. To get anything lower you really need to work hard, and even then the Deans fight the professors. Truly, getting in is the hardest thing to do. Honors are given on a very arbitrary basis and some students

have problems with this. Professors can give as many or as few as they wish and since there is no concrete standard, students sometimes feel that they have been unfairly "given the shaft." Still, this isn't a big problem for us

That brings me to the wonderful aspects of the program. Here, there is absolutely no focus on grades, or class rank (we don't have that). It is a pure, noncompetitive, intellectual community. Around every corner students share ideas and build on new concepts. We don't have any inter-student competition or people withholding ideas to try and "get ahead" because there isn't a way to get ahead of other students. The only motivation and drive comes from within each of us. This creates such an incredibly productive community that I can't even express how wonderful it is. Nobody feels higher or better than others. There isn't heavy competition to get on a certain journal or a certain office b/c we all distinguish ourselves in our own ways. Furthermore, the first semester is strictly Credit/ No Credit, so there isn't even any pressure to shoot for an Honors or anything. A first semester student can simply relax and try to learn and lay a foundation for future learning without a single bit of pressure. Once again, it is well known that not a single student has ever failed a class in the first semester. In the worst case, there are a few urban legends about students who were told to re-take the final, but thus far they are unsubstantiated.

The students here love the system, myself included. It is a MAJOR reason that I chose this school b/c to me, I didn't want a harsh competition at law school. Severe competition stifles the creative instinct and leads to a lessening of everyone's overall experience. Many of my friends said this was also a very important factor in why they chose to come here too. It must be said, however, that a major reason it works so well is because admissions is so tough and because the reputation is so well established. We don't need to worry about being the top of the class or anything like that because by virtue of being here, we already know we can get a job at the top firms in the country. As my Torts professor Guido Calabresi said last semester, we have the incredible gift that, through this system of grading (informally all of which is Pass or Honors), we can be off the treadmill" so-to-speak, and know that we will still be okay in life. He used to give the speech all the time when he was Dean and it is really true. You might try dropping him or Tony Kronman (our current Dean) a note to see if they could give some administrative insight... I just assume the results of the system correspond with the reason for implementation, but there could have been other thoughts.

Well, I hope I have been of some help to you. I also hope that what I said above doesn't sound arrogant or anything. It can come across that way, but since this is honestly what we hear from professors and come to learn, it is really important to understanding the benefits of the system and the school and our overall mentality toward grades. If I can be of any more help, just let me know.

Cheers,
Greg

Letter to the Editor

March 20th, 2002

Dear Madam:

I write to protest your recent publication of two barbarous attacks, penned by that inelegant pair, Messrs. Bustos and Turner, on one of our marvels of legislation, the *An Act Respecting Income Taxes* [2001], cc. 16, 17, better known as the "Income Tax Act" or simply "ITA." For the sake of brevity, let us keep silent about their spelling, neither quite British nor wholly American, and lacunae of grammar, which left me groaning like a hippopotamus in labor.

It is galling that these authors, who have at best taken the introductory tax course (if at all), have the temerity to pass sweeping judgment on hundreds of pages of an Act with which they display a shocking unfamiliarity, thereby denigrating the work of dozens of judges, hundreds of Parliamentary committees, thousands of drafters, and tens of thousands of tax practitioners (upstanding citizens all) in the most scandalous fashion. This must not stand!

I venture that Messrs. Bustos and Turner would be hard-pressed to distinguish a "credit" from a "deduction," let alone counsel clients on whether "foreign investment income" is subject to tax under the rules governing "foreign accrual property income." Can they define the terms "deemed dividend" and "capital dividend?" I think not!

That being said, the oft-banded charge that the Act is "incomprehensible" lacks merit. Those who misunderstand its logic rarely, if ever, require the kind of sophisticated tax planning that would merit study of the Act. (But, Oh, how those who study the Act's intricacies are rewarded!) The instructions enclosed with Form T-1 and the Schedules clarify most problems faced by salaried plebeians. If not, Her Majesty's Government has graciously created a hotline, which stands ready to answer further questions. Take that!

Moreover, the allegation that tax planning is "outrageously expensive" bears no relation to reality. Inexpensive software available in most grocery stores, pharmacies, and stationeries will do the calculations for innumerate purchasers. Should that fail, H. & R. Block can compute most taxpayers' liability for a

reasonable fee. Only the most sophisticated taxpayers require a lawyer's advice and, even then, I dare say (without blushing) that their money is well spent. No one engaged in tax avoidance, the second oldest profession, deserves humiliation on that account alone. So there!

Please notify Mr. Turner that "Canada Customs and Revenue" is now an agency, not a department, or a branch, or a section, or an institute, or a bureau, or a division... This may seem trivial to the unlearned rabble that sits at the back of the class loudly slurping its coffee throughout lecture, but upon this narrow distinction hangs a billion dollar budget. Ha!

Whether government was constituted to protect private property or whether, conversely, the propertied class invented government to protect its possessions cannot be answered at this remove. A "chicken and egg" situation, if you will... Liberals of the Old School – Locke, Smith, and Hayek – inclined towards the former. Utilitarians like Bentham argued for the latter. Neither Mr. Bustos nor Mr. Turner does justice to this question, which has been at the heart of debates over tax policy for centuries.

It is my considered opinion that after 85 years of almost constant refinement the Act has acquired an oaken patina, a bouquet comparable to the finest brandies, and a delicate poise that would shame a ballerina. The elegance of the Act's phraseology, the economy of its prose, and the precision of its language are a wonder of legislative drafting. No one, however talented, beginning anew, could by conscious art match the beauty, the practicality, and the wisdom of this graceful tome. I will not defy Messrs. Bustos and Turner to try lest they answer the challenge, destroying the Canadian economy and bankrupting the State in the process. God preserve us!

I hotly dispute allegations that the Act is "undemocratic." The Act perfectly mirrors the present distribution of power in Canada, and has since its inception. The Act is the way it is because that is the way YOU, the sum total of all Canadian residents and your assorted interests, want it to be. The Act does not lie. Every line

has been reviewed, rewritten, and hotly contested. Every line is a product of YOUR political process. Perhaps this is why the assemblage of all 260 sections looks ridiculous to purists, purists who need not concern themselves with trivialities like "economics," "voters," and "international competitiveness!"

In fairness, some (though not many) of the proposals outlined by Messrs. Bustos and Turner deserve consideration, but not by these demagogues of the penny press. The proper forums are the five tax classes offered by the Faculty: introduction to taxation, corporate tax, estate planning, tax policy, and international tax. I am a veteran of all five. All are excellent. What is more, for those of you who are not citizens of the Cayman Islands and can therefore expect to pay taxes till the day you die (and perhaps even beyond your death if you are wealthy enough!), these classes are eminently practical. You may even like some of the people you meet. Tax lawyers are a modest bunch. They prefer an inquisitive mind to bombastic rhetoric. None ever mounts a soapbox to conceal his ignorance.

Your Humble Servant,
Joseph W. Mik, Jr., OSSD, BA, BCL and LLB in progress, etc., etc...

Chess Solution

The white queen on H1 moves to C1.
Black makes any move. White mates accordingly.

